



The State of  
**Montana**

**Impaired Driving Assessment**

---

**Prevention**

---

**Deterrence**

---

**Treatment & Rehabilitation**

---

**Driver Licensing**

---

**Program Management**

---

October 22-26, 2001

# **STATE OF MONTANA**

## **IMPAIRED DRIVING**

### **ASSESSMENT**

**October 22 - 26, 2001**

National Highway Traffic  
Safety Administration  
Technical Assistance Team

Chief Arthur L. Anderson  
David J. Bozak  
Virginia M. Jaramillo  
Robert P. Lillis  
Judge G. Michael Witte

# TABLE OF CONTENTS

<u>Subject</u>	<u>Page</u>
ACKNOWLEDGEMENTS .....	1
INTRODUCTION .....	2
PRIORITY RECOMMENDATIONS .....	6
1. PROGRAM MANAGEMENT.....	10
1-A: State Program Planning	
Advisory.....	10
Status .....	10
Recommendations .....	11
1-B: Program Control	
Advisory.....	12
Status .....	12
Recommendations .....	13
1-C: State and Local DUI Task Forces and Safe Kids/Safe Communities Programs	
Advisory.....	14
Status .....	14
Recommendations .....	15
1-D: Data and Records	
Advisory.....	17
Status .....	17
Recommendations .....	18
1-E: Evaluation	
Advisory.....	19
Status .....	19
Recommendations .....	19

1-F: Funding	
Advisory.....	20
Status .....	20
Recommendations .....	21
2. PREVENTION.....	22
2-A: Public Information and Education for Prevention	
Advisory.....	22
Status .....	22
Recommendations .....	23
2-B: School Programs and Community Youth Programs	
Advisory.....	24
Status .....	24
Recommendations .....	25
2-C: Employer Programs	
Advisory.....	27
Status .....	27
Recommendations .....	27
2-D: Alcohol Availability and Responsible Alcohol Service	
Advisory.....	28
Status .....	28
Recommendations .....	29
2-E: Transportation Alternatives	
Advisory.....	30
Status .....	30
Recommendations .....	30
3. DETERRENCE.....	31
3-A: Laws to Deter Impaired Driving	
Advisory.....	31
Status .....	31
Recommendations .....	36

3-B: Public Information and Education for Deterrence	
Advisory.....	37
Status .....	37
Recommendations .....	38
3-C: Enforcement	
Advisory.....	39
Status .....	39
Recommendations .....	39
3-D: Prosecution	
Advisory.....	42
Status .....	42
Recommendations .....	43
3-E: Adjudication	
Advisory.....	45
Status .....	45
Recommendations .....	46
4. DRIVER LICENSING.....	48
4-A: Prevention	
Advisory.....	48
Status .....	48
Recommendations .....	49
4-B: Deterrence	
Advisory.....	51
Status .....	51
Recommendations .....	52
4-C: Program Management	
Advisory.....	53
Status .....	53
Recommendations .....	54

5. TREATMENT AND REHABILITATION.....	56
5-A: Diagnosis and Screening	
Advisory.....	56
Status .....	56
Recommendations .....	57
5-B: Treatment and Rehabilitation	
Advisory.....	58
Status .....	58
Recommendations .....	58
TECHNICAL ASSISTANCE TEAM .....	59
AGENDA.....	69

## ACKNOWLEDGEMENTS

The Technical Assistance Team acknowledges and thanks Albert Goke, Governor's Traffic Safety Representative, Montana Traffic & Safety Bureau, and his staff for their support and able assistance in making this review possible. The Team especially would like to recognize the tremendous amount of hard work and long hours that Priscilla Sinclair, Training and Development Specialist, Montana Traffic & Safety Bureau contributed to this assessment. She was responsible for the assessment logistics, briefing materials, identifying presenters, and scheduling their appearance before the assessment team.

The Team believes that this report will contribute to the State's efforts to enhance the effectiveness of their impaired driving program in preventing injuries, saving lives, and reducing economic costs of motor vehicle crashes on Montana's roadways.

Robert Hohn, Impaired Driving Division, National Highway Traffic Safety Administration (NHTSA), and Judy Hammond, NHTSA Region VIII, identified team members and facilitated the assessment process. The Team would like to thank them for helping to give a national perspective to the assessment process.

Belinda Goodwin's support during the preparation phase of the report was especially appreciated. The Team wishes to acknowledge her patience, administrative ability, and writing and editing skills. Her ability to manage the production of a final report in a period of one week has been invaluable.

The Team also thanks each of the participants in the review for the time and energy invested in preparing and delivering their presentations. Their candor and thoroughness in discussing their activities to target impaired driving in Montana greatly assisted the team in conducting a complete review.

Although the Team realizes that the assessment is a critique of all impaired driving activities, the Team wishes to commend all who are involved in the day-to-day functions of reducing impaired driving in Montana.

## INTRODUCTION

In 2000, 41,821 persons were killed and an additional 3.2 million persons were injured (police reported) in motor vehicle crashes in the United States. Motor vehicle injuries are the leading cause of death for individuals from age 5 through 27. Motor vehicle crashes are the principal cause of on-the-job fatalities and are the leading cause of accidental death in the United States. The economic cost of motor vehicle crashes exceeds \$150 billion annually.

Alcohol was involved in approximately 40 percent (16,653) of the total number of traffic fatalities and responsible for in excess of three hundred thousand injuries in 2000. The National Highway Traffic Safety Administration (NHTSA), through its Partners in Progress national initiative, established a goal to reduce the incidence of impaired driving fatalities in the United States to no more than 11,000 per year by the year 2005.

In its on-going pursuit of the goal of reducing alcohol-related traffic crashes and resulting fatalities and injuries, NHTSA has continued its program of providing Technical Assistance Teams to the States upon request. This approach allows the States to use highway safety funds to support the Team's evaluation of existing and proposed alcohol and drug impaired control efforts.

NHTSA acts as a facilitator by assembling teams of individuals who have demonstrated their competence in impaired driving program evaluation and development. Examples of program expertise among recent team members include prevention, enforcement, prosecution, adjudication, program management, evaluation, traffic records, and treatment/rehabilitation.

The State of Montana, through its Traffic & Safety Bureau, has requested NHTSA's assistance in assessing the State's alcohol and drug impaired driving countermeasures program. NHTSA agreed to facilitate the technical review and met with the Governor's Representative and staff members of the Traffic & Safety Bureau to define key issues of concern to the State.

The Montana assessment was conducted at the Holiday Inn Downtown in Helena, Montana from October 21 through October 26, 2001. Mr. Albert Goke, Governor's Traffic Safety Representative, arranged for staff and local program experts (see Agenda) to deliver briefings and to provide support materials to the Team on a wide range of topics over a three-day period. The team interviewed a total of 29 presenters, with several being contacted following their presentations to provide additional information and clarification.

### **Montana Demographics:**

Montana, located in the northwestern portion of the United States, is bordered on the north by Canada, on the west by Idaho, on the south by Wyoming and on the east by North Dakota and a portion of South Dakota. Montana is the third largest State in the United States in terms of land mass and seventh smallest in the United States in terms of population. The State of Montana is made up of 56 counties with five major population centers. The western third of Montana is mountainous country, while the eastern two-thirds of the State is relatively flat and primarily farmland. According to the 2000 census report, there was an increase of 12.9 percent in

population between 1990 and 2000, from 799,065 to 902,195.

Native Americans were the first inhabitants of the area to become known as the State of Montana. Tribes include the Crow in the south central region, the Cheyenne in the southeastern part of the State, the Blackfeet, Assiniboine and Gros Ventre in the central and north central area and the Salish, Kootenai in the western sector. The Pend d'Oreille were found around Flathead Lake, and the Kalispell occupied the western mountains.

Montana has 11 Indian tribes living on seven reservations. Together they make up about six percent of Montana's population. Before trappers and settlers came west, Native Americans roamed freely across the State, following the huge buffalo herds that once covered the plains. Each tribe has unique customs and traditions. While Montana's Native Americans have worked to adapt to the changing world around them, they have kept the rich culture and traditions of their past. This rich heritage contributes to the distinct flavor of Montana. Their culture is celebrated through dance, songs, games, language, and religious ceremonies. Annual tribal events include rodeos and powwows. Beautiful arts and crafts reflect a special connection between Montana Native Americans and nature.

The Lewis and Clark Expedition of 1804-1806 was the first group of white explorers to cross Montana. Hard on the heels of the expedition arrived the fur trappers and traders. Trappers brought alcohol, disease and a new economic system to native populations. The fur trade was mostly over by the 1840s due to dwindling supplies of beaver, and the loss of popularity of the beaver hat.

Roman Catholic missionaries followed the trappers into Montana. They established Saint Mary's Mission in the Bitterroot Valley, thought to be the first permanent settlement in Montana. They also promoted agriculture and built a sawmill.

The discovery of gold brought many prospectors into the area in the 1860s, and Montana became a territory in 1864. The rapid influx of people led to boomtowns that grew rapidly and declined just as quickly when the gold ran out.

As more and more white people came into the area, the Native Americans lost access to their traditional hunting grounds and conflicts grew. The Sioux and Cheyenne were victorious in 1876 at the Battle of the Little Bighorn, and Chief Joseph and the Nez Perce won a battle in the Big Hole Basin (1877). Yet, in the end, the Native Americans could not hold out against the strength of the United States Army. Legend has it that upon his capture, Sitting Bull put a curse on Montana that it would "never change."

Miners weren't the only early settlers in Montana. Cattle ranches began flourishing in western valleys during the 1860s as demand for beef in the new mining communities increased. After 1870, open-range cattle operations spread across the high plains, taking advantage of the free public-domain land.

During the 1880s, railroads crossed Montana and the territory became a state in 1889. Hardrock mining also began at this time. Butte became famous when silver and copper were discovered.

The Anaconda Copper Company, owned by Marcus Daly, became one of the world's largest copper mining companies and exercised inordinate influence in the State.

Cattle and sheep ranches continued to take advantage of Montana's abundant grasslands. Passage of the Enlarged Homestead Act in 1909 brought tens of thousands of homestead farmers into the state looking for inexpensive land. Wheat farming was popular until an extended drought, and a drop in market prices after World War I, ruined many farmers. The homestead "bust" forced many farmers to abandon Montana.

Montana's post-World War I depression extended through the 1920s and right into the Great Depression of the 1930s. Then President Franklin D. Roosevelt's "New Deal" brought relief to the State in the form of various projects and agencies: the building of Fort Peck Dam; the Civilian Conservation Corps (CCC); the Works Projects Administration (WPA); the Agricultural Adjustment Administration (AAA). These "alphabet agencies" mark the first real dependence of the State on federal spending in the 20th century -- a reliance that would build through the century.

As across the nation, World War II broke the hold of the Great Depression on Montana. The war brought additional federal monies to the State, but drew young people into the service and into wartime industries on the West Coast. The resultant wartime dislocation changed Montana forever.

Post-war or "modern" Montana (1945-2000) has been characterized by a slow shift from an economy that relies on the extraction of natural resources to one that is service-based. Such traditional industries as copper, petroleum, coal, and timber have suffered wild market fluctuations and unstable employment patterns. Agriculture -- while dependent on weather, a declining workforce, and international markets -- has remained Montana's primary industry throughout the era. After 1970, tourism supplanted mining as the State's second largest industry. This era also saw the important shift in the State's transportation system from railroads to cars, trucks and highways.

Some remarkable national politicians have contributed to Montana post-war politics: James E. Murray, Mike Mansfield, Lee Metcalf, and Pat Williams. Montanans, more conservative on the state level, frequently have split their legislative houses and sought only moderate change. An exception was the passage of a new state constitution in 1972 -- one that placed more responsibility on the individual voter and made significant strides to protect the Montana environment. Some observers say that much of subsequent Montana history can be seen as working out of that 1972 constitution.

Montana's post-war society has evolved significantly during the "modern" era. Still predominantly white, it has experienced the acceptance of ethnic immigrants, and the development of a Hutterite network. Population fluctuations cost Montana a U.S. House seat in the 1990s and have kept the total population under 950,000. Population shifts have loaded Montana's people in the western one-third of the State and "emptied out" eastern Montana's vast spaces.

While some national observers consider Montana a part of America's "cultural outback," many Montanans pride themselves on their strong spirit of community, their close contact with the environment, and their fundamental "sense of place." Montana is often referred to as "The Last Best Place." The debate continues, perhaps fulfilling the prophecy of Sitting Bull.

A thorough analysis of the alcohol-related crash problem is documented in *Traffic Safety Problem Identification – FY 2002* prepared by the Traffic & Safety Bureau. The figure below reflects changes in the numbers of reported alcohol-crashes between 1994, the year of the last Assessment, and 2000.

Alcohol-Related	1994	2000	% Change
Total Crashes	2,245	2,211	- 1.5
Fatal Crashes	87	74	- 14.9
Fatalities	96	86	- 10.4
Injuries	1,929	1,824	- 5.4

Total alcohol crashes decreased from 2,245 in 1994 to 2,211 in 2000, a reduction of 1.5 percent. Alcohol-related fatal crashes decreased by 14.9 percent during the same period.

## **PRIORITY RECOMMENDATIONS**

Priority recommendations are “bolded” in individual sections.

### **1-A: State Program Planning**

- ◆ **Formalize planning meetings so that interested parties are aware of timeframes for submitting recommendations or project proposals.**

### **1-B: Program Control**

- ◆ **Provide training for subgrantees on fiscal responsibility and performance accountability.**
- ◆ **Provide cross training of Traffic & Safety Bureau (T&SB) staff to ensure program stability and adherence to regulations.**
- ◆ **Update the project monitoring process.**
- ◆ **Contract for project monitoring services if T&SB staff cannot accomplish the required monitoring tasks.**

### **1-C: State and Local Task Forces and Safe Communities Programs**

- ◆ **Reactivate the statewide DUI task force.**
- ◆ **Conduct workshops or forums to market impaired driving programs and encourage the exchange of information between community-based programs.**

### **1-D: Data and Records**

- ◆ **Charge a multi-agency stakeholder group to develop a strategic plan to study efforts already underway, by Federal Highway Administration (FHWA), American Association of Highway Transportation Officials (AASHTO) and others, which may be applicable to similar long-range efforts here in Montana.**

### **1-E: Evaluation**

- ◆ **Coordinate activities and involve Bureau of Indian Affairs (BIA) in traffic records systems development to encourage exchange of information with them.**

### **1-F: Funding**

- ◆ **Coordinate efforts and enact legislation to conform to federal requirements.**

- ◆ **Enact legislation to provide language for the automatic annual distribution and administration of the driver license reinstatement fee once these have been collected.**

#### **2-A: Public Information and Education for Prevention (PI&E)**

- ◆ **A comprehensive PI&E plan should be developed to address all elements of public awareness, knowledge, and attitudes related to prevention of DUI.**

#### **2-B: School Programs and Community Youth Programs**

- ◆ **Coordinate the efforts of local SAFE KIDS / SAFE COMMUNITIES projects, local State Incentive Cooperation Agreement (SICA), and other substance abuse prevention coalitions.**
- ◆ **Reinstate funds for local DUI Task Forces consistent with existing legislation.**
- ◆ **Establish a task force to conduct a comprehensive review of college DUI and substance abuse prevention programs including campus alcohol policies and make recommendations for creating a healthy environment in relation to use of alcohol.**

#### **2-D: Alcohol Availability and Responsible Alcohol Service**

- ◆ **Enact legislation to prohibit or restrict promotions such as happy hours and free drinks.**

#### **2-E: Transportation Alternatives**

- ◆ **Assure that all designated driver and safe ride programs should be designed to include health risk information, prohibit participation by underage or other high-risk drinkers and discourage over-consumption.**

#### **3-A: Laws to Deter Impaired Driving**

- ◆ **Enact .08 Alcohol Concentration (AC) as the presumptive standard for being under the influence of alcohol.**
- ◆ **Prohibit convicted DUI/per se offender to receive a restricted probationary license in lieu of suspension or revocation.**
- ◆ **Dedicate more resources to carry out the DUI enforcement, prosecution, and adjudication scheme, including resources to allow mandatory sentences to be fulfilled immediately and with certainty.**
- ◆ **Disperse to the counties 100 percent of the driver license reinstatement fee to fund local drinking and driving prevention programs.**

- ◆ **Enact an Administrative License Revocation (ALR) law.**

### **3-B: Public Information and Education for Deterrence**

- ◆ **Develop a comprehensive and innovative statewide annual Public Information and Education plan.**
- ◆ **Educate the general public on all aspects of impaired driving through a series of Town Hall meetings that will feature traffic safety as a quality of life issue. These meetings can serve as a conduit for the public to provide input on statewide DUI efforts.**
- ◆ **Establish an ongoing publicity campaign that includes all law enforcement agencies regarding their impaired driving enforcement and education efforts.**

### **3-C: Enforcement**

- ◆ **Enact .08 AC, open container, and ALR laws as measures to reduce DUI.**
- ◆ **Establish an annual statewide law enforcement and prosecutors DUI conference to ensure quality DUI arrests and prosecution.**
- ◆ **Re-establish funding for county DUI task forces.**

### **3-D: Prosecution**

- ◆ **Require annual DUI training for county and city attorneys.**
- ◆ **Implement statewide communication channels among county and city attorneys.**
- ◆ **Enact a separate offense for refusal to submit to an alcohol concentration test with penalties equivalent to that of DUI.**

### **3-E: Adjudication**

- ◆ **Draft and interpret DUI statutes in a manner that allows consistent adjudication among the jurisdictions.**
- ◆ **Include within DUI judicial education curriculum that teach the dynamics and character traits of alcoholism and alcohol abuse, and the ways in which court practices can serve as tools of enabling, co-dependence, and denial for the alcoholic or alcohol abuser.**
- ◆ **Make probation services available to all courts adjudicating DUI/per se.**

- ◆ **Re-assign supervision of probation officers to the judicial system and away from the Department of Corrections. Provide resources to courts and allow them to hire probation officers.**

#### **4-A: Prevention**

- ◆ **Charge a multi-agency stakeholder group to consider the objectives, obstacles, strategies, and benefits of adopting a graduated licensing system for novice drivers as outlined in the NHTSA Advisory for Impaired Driving.**

#### **4-B: Deterrence**

- ◆ **Continue emphasis for providing officers in the field with mobile computing technology to streamline and to integrate the recording of motor vehicle traffic crash and summons information.**

#### **4-C: Program Management**

- ◆ **Promote the adoption and use of a statewide uniform traffic ticket (UTT).**
- ◆ **Charge a multi-agency stakeholder group to consider the objectives, obstacles, strategies, and benefits of adopting a statewide tracking system for citations from the time of their distribution to an enforcement jurisdiction, through issuance to an offender, ultimate disposition by a court and posting to the driver history record.**

#### **5-A: Diagnosis and Screening**

- ◆ **Develop and implement a DUI client tracking system.**

#### **5-B: Treatment and Rehabilitation**

- ◆ **Develop and implement a DUI client tracking system.**
- ◆ **A single agency should be responsible for tracking and monitoring offenders through the assessment, course, and treatment system.**

## **1. PROGRAM MANAGEMENT**

*Good program management produces effective programs. Planning and coordination are especially important for impaired driving activities, since many different parties are involved. Each state's impaired driving program management system should have an established process for managing its planning (including problem identification), program control and evaluation activities. The system should address Safe Communities programs, state and local task forces, data analysis and funding.*

### **1-A: State Program Planning**

#### **Advisory**

States should develop and implement an overall plan for all impaired driving activities.

#### **Status**

Montana's Traffic and Safety Bureau (T&SB) is located within the Department of Transportation's Engineering Division. The Governor's Traffic Safety Representative is Mr. Albert E. Goke who is responsible for the coordination of all statewide impaired driving programs and activities. Since the last impaired driving assessment was conducted in 1994, the T&SB was transferred from the Department of Justice to the Department of Transportation and the number of full-time employees has been reduced from eight to a total of six employees. Staff consists of Mr. Goke, a Training & Development Specialist, a Statistician, a Program Specialist, a Fatality Analysis Reporting System (FARS) Analyst, a Planner, and an Accountant. Staffing level has remained the same for many years and will not increase since there is a freeze on increasing full-time positions within state government.

Overall federal funding, specifically funding for alcohol-countermeasure programs, has increased within the last few years, but staffing has remained at the same level. T&SB staff is responsible for the promotion, development, and management of all traffic safety programs. In addition, the staff collects and analyzes the FARS and state crash data that are used in the problem identification and program development processes. Crash data are collected from the State's standardized crash form or other voluntarily submitted crash forms completed by law enforcement agencies. Submittal of crash information is at the discretion of each agency and is not mandatory unless the state crash form is used; therefore, the data collected and analyzed are considered a sample, representative of the State.

The FARS, state crash, and driver-licensing data are combined into a comprehensive Traffic Safety Problem Identification report that provides a variety of information relating to crashes and trends associated with traffic safety in Montana. The report is distributed to all partners and the public. The report is also available on the Internet. County profiles are available and distributed to the counties for problem identification and development of strategies.

Other data available and used for problem identification include survey data from the Youth Risk Behavior Survey and public opinion surveys conducted by Montana State University or self-

reported opinions provided at the Records and Driver Control Bureau. Once the data are gathered, these are analyzed and problems are ranked based on various rates, which is one of the primary factors in determining which projects are funded. Other factors include, but are not limited to, the availability of contractors willing or able to perform the project activities, past performance of contractors, proven strategies, and the amount of funding available for the identified problem.

The T&SB involves various partners in the identification of problems, development of strategies, and implementation of traffic safety programs. T&SB has not formalized the processes or the meetings that are conducted for partners to provide recommendations in the development of the Performance and Highway Safety Plans. Participants involved in this process include Federal, State, and local public and university officials, private firms and the public.

### **Recommendations**

- ◆ Enact legislation to mandate reporting of all crashes to a single agency.
- ◆ Post county profiles on the Internet for access by partners and others interested in traffic safety.
- ◆ Develop city and town-level profiles for use by the communities.
- ◆ **Formalize planning meetings so that interested parties are aware of timeframes for submitting recommendations or project proposals.**

## **1-B: Program Control**

### **Advisory**

*States should have established procedures for systematic monitoring and review of ongoing programs to ensure that program activities are implemented as intended.*

### **Status**

Federal funding regulations are being followed by the Traffic and Safety Bureau (T&SB). The Performance and Highway Safety Plans have been developed and submitted as required. The plans describe the problem identification process, participants involved, and reflect goals and benchmarks by program areas.

The T&SB follows the policies and procedures established by the Montana Department of Transportation (MDOT) to manage the traffic safety programs. The Project Director's Manual is used to provide direction and policy on the fiscal responsibilities and management of traffic safety projects. In addition, contracts reflect performance, reporting, and evaluation requirements within the standard boilerplate. The manual is in the process of being updated.

A monitoring process established in 1993 is the basis for the current monitoring process used by the T&SB. In general, thresholds have been established and are based on project amount; the type of monitoring conducted varies depending on the type and amount of the project. Monitoring includes on-site visits, informal meetings, or telephone interviews and self-reporting. Most of the monitoring is done via telephone due to the limited number of staff and in-state travel resources available to the T&SB. The monitoring provides the T&SB with information on performance of activities, technical assistance required, or detection of problems. A checklist is used when conducting the monitoring and requires information such as planned activities, emphasis on project activities, problems encountered, corrective action taken, and amount spent to date. At random, spot checks are conducted to monitor certain invoices billed by the contractors. Documentation is requested to justify the billed amount and reviewed to ensure proper billing and payment has occurred.

Problems with the monitoring process have been encountered. Documents sent for filing and retention per federal regulations have been "weeded out" by MDOT staff following internal department and state procedures for document retention. This does not appear to be a major issue since subgrantees are required to keep the same documentation. The monitoring process is currently being revised to reflect new direction provided by the National Highway Traffic Safety Administration (NHTSA). As a result, on-site monitoring visits have already increased within the past month and T&SB staff is working with other MDOT staff on the records retention issue.

Other issues currently under review include the submission of quarterly and final reports as required under contract. Many subgrantees do not provide the final reports until 90 days after project completion that creates problems for the T&SB. The State uses project final reports to develop the annual report submitted to NHTSA that is due within the same 90-day period. This issue is being reviewed and alternatives are being considered to ensure timely receipt of reports

by the T&SB.

### **Recommendations**

- ◆ **Provide training for subgrantees on fiscal responsibility and performance accountability.**
- ◆ **Provide cross training of T&SB staff to ensure program stability and adherence to regulations.**
- ◆ Update procedures for subgrantees to ensure adherence to contract requirements.
- ◆ **Update the project monitoring process.**
- ◆ **Contract for project monitoring services if T&SB staff cannot accomplish the required monitoring tasks.**

## **1-C: State and Local Task Forces and Safe Communities Programs**

### **Advisory**

*States should encourage the development of state and community impaired driving task forces and Safe Communities Programs.*

### **Status**

In the past, the Governor and the Attorney General had established a joint statewide DUI task force that was very effective in promoting the passage of significant impaired driving laws. It was effective in coordinating programs and resources. Once the administration changed, the statewide DUI task force was effectively dissolved. Although some support exists for the idea of a task force, it has not yet been reactivated.

Legislative participation and support for impaired driving legislation and programs has declined with the dissolution of the statewide task force. Due to legislative term limits, the turnover will necessitate training and education for new legislators on impaired driving issues.

Local DUI Task Forces, currently a total of twenty-two, have proven to be effective in implementing impaired driving countermeasures in the counties where they exist. DUI task force membership includes representatives from various entities such as community leaders, prosecutors, attorneys, DUI victims, law enforcement, alcohol distributors, Tavern Association representatives, coroners, Assessment, Course, and Treatment (ACT) counselors, health services staff, teachers, and others. These members are appointed by County Commissioners. The purpose of the local DUI Task Forces is to identify impaired driving problems within the county, develop strategies to address the problems, and submit an approved plan, signed by the County Commissioners for review and approval by the Traffic and Safety Bureau (T&SB). Once the plan is approved by the T&SB, funds generated from a driver license reinstatement fee charged on DUI convictions are allocated to the task forces.

During the last legislative session, funds were not allocated to the local DUI task forces. The reinstatement fees collected will be absorbed by the State's General Fund and are not available for impaired driving activities at the county level. The task forces are left in the unfortunate position of implementing their DUI plan without these funds.

Although the local DUI task forces have been successful at implementing impaired driving countermeasures, additional community based programs are needed. The T&SB is implementing the SAFE KIDS / SAFE COMMUNITIES program by funding twenty-one projects to focus on impaired driving and occupant protection issues. The projects will be managed by a not-for-profit organization called "Healthy Mothers, Healthy Babies."

Information provided indicates that a variety of women's organizations, mobilized during the 1980s, were effective and had a big impact on passing DUI legislation for repeat offenders. These groups, as well as the Mothers Against Drunk Driving (MADD) and Students Against Driving Drunk (SADD) chapters in the State, have worked effectively with the T&SB in

Montana. In addition, other independent community-based programs focused on impaired driving and other substance abuse issues exist throughout the State and are managed by various entities at the State and local levels.

Although DUI task forces have been very active at the local level, there does not seem to be a conduit between the task forces in various counties. Communication and coordination is fragmented between and among State agencies and local organizations. Some groups are unaware of the others efforts, even though both are working on the same issues dealing with impaired driving.

Since there are not many corporations or employers with over one hundred employees, employer programs in Montana are primarily promoted through the distribution of traffic safety information packets sent to individual employers.

Other agencies, such as non-profits and the Universities assist the T&SB in promoting impaired driving issues. Montana State University contracts with T&SB and is responsible for the statewide impaired driving media campaign focused on the “Most of Us” messages relating to social norming. This campaign will be expanded this year to target the 18 – 35 age group and will be involved in assessing individual community readiness on promoting traffic safety issues. Media messages will be developed in various languages, using culturally sensitive themes so that all Montanans, including Native Americans receive the messages. Once communities are selected, media spots will be purchased in specific markets concentrating on identified problem areas.

In Montana, it is difficult to publicize traffic safety messages without paid media. Newspapers will not print anything for free, including Public Service Announcements (PSAs). The Broadcasters Association fees to air PSAs are not cost effective for reaching the target audience. The use of paid media has recently been implemented and appears to be well accepted and supported by evaluation data.

The Office of Public Instruction offers standard curriculum and courses in traffic and drivers education programs in more than 90 percent of the school districts, including tribal schools. In addition, comprehensive health courses are also offered. The curriculum is made available to the teachers who have the flexibility to emphasize various components. This may or may not include sufficient coverage of traffic safety issues. Some student organizations, such as the student governments, have brought in presenters to address the student body on various drivers education and traffic safety issues.

## **Recommendations**

- ◆ **Reactivate the statewide DUI task force.**
- ◆ Contract with outside agencies that can provide information or educational materials to legislators on impaired driving issues.
- ◆ Formalize interaction and coordination with other state agencies and local entities.

- ◆ Develop a DUI workgroup that meets regularly to identify problems and discusses programs or methods of sharing resources, changing laws, or improving programs or processes.
- ◆ **Conduct workshops or forums to market impaired driving programs and encourage the exchange of information between community-based programs.**
- ◆ Re-establish partnerships or reactivate the women's groups that can promote and advocate impaired driving countermeasure programs.
- ◆ Establish programs to involve the media in the education and development of impaired driving programs.
- ◆ Conduct workshops to encourage teachers to focus on and add emphasis to impaired driving issues within the traffic and driver's education curriculum.
- ◆ Provide a list of resources (presenters or materials) that can be accessed by student organizations or other partners involved in promoting traffic safety.
- ◆ Establish a central clearinghouse for T&SB information and materials that can be accessed by partners, community organizations, and the public.
- ◆ Publicize local ordinances that promote traffic safety, such as those dealing with open containers.
- ◆ Increase interaction with and participation by tribal communities in impaired driving activities.

## **1-D: Data and Records**

### **Advisory**

*States should establish and maintain records systems for crashes, arrests, dispositions, driver licenses and vehicle registrations. Especially important are tracking systems that can provide information on every driver arrested for DUI to determine the disposition of the case and compliance with sanctions. These records systems should be accurate, timely, able to be linked to each other, and readily accessible to police, courts, and planners.*

### **Status**

During the previous assessment, it was recommended that the State of Montana link the computer systems of all agencies, such as enforcement, motor vehicles and the judiciary, to better combat impaired driving. While progress has been made in selected areas, this need still exists. Fortunately, the technology to achieve greater progress in this area has advanced significantly since 1994, and the emphasis to strengthen these types of tools to combat impaired driving has increased nationally.

The crash file represents a major component to use in addressing impaired driving. A mobile computer software application was developed recently for input of traffic crash data at the scene. Plans include the use of transfer funds through the Traffic & Safety Bureau (T&SB) to promote the computerization of vehicles for state and local law enforcement agencies (refer to Section 4-C). First priority is to give the officer the technology to make on-line queries through the Criminal Justice Information Network (CJIN) to obtain information about a vehicle and its driver before/during a traffic stop. Using this mobile computer platform, the officers in some jurisdictions are already able to complete the HQ1599 Crash Investigator's Report at the scene. If an officer decides to issue a citation, it is very valuable to the officer's time and to the quality of information gathered in the field, if name, address, and other identifying information already gathered on the HQ1599 can be replicated on a joint electronic citation within the same suite of software.

The development of this and other similar approaches for improving an officer's ability to carry out traffic enforcement, using emerging technologies, is happening throughout the U.S. There are major efforts underway by the Federal Highway Administration (FHWA) and the American Association of State Highway Transportation Officials (AASHTO), as well as others, which may be applicable to related long-range efforts here in Montana. The following represents a multi-state effort, supported by the FHWA, in which considerable progress has been made in the past eight years.

The Traffic and Criminal Software (TraCS) system, includes automated crash, citation, crime, location/GPS, vehicle inspection, complaint investigation and other reporting elements that an officer is called upon in the normal course of carrying out enforcement duties. One of the greatest time dependent functions that an officer carries out is a DUI arrest. In most states, the number of forms/paperwork alone that an officer must complete in processing a DUI offender is enormous. The mobile operating while intoxicated component represents another automated

reporting tool that has been integrated seamlessly into the TraCS system. Officers responding to a motor vehicle traffic crash, which results in multiple citations including a DUI arrest, have at their disposal some of the latest technology to ease the forms/paperwork burden that officers have fought for so many years. In addition to the fact that it now includes the joint planning and development of 16 states, TraCS represents public domain software, which is continuing to improve due to the shared functionality agreements between involved states. A joint TraCS steering committee meeting involving the following states is planned for mid-November 2001: Iowa, New York, Tennessee, Nevada, Georgia, Alabama, Arizona, Arkansas, Delaware, Oklahoma, Colorado, Indiana, South Carolina, South Dakota, Virginia, and Wisconsin.

Future baseline changes being considered for TraCS, some of which already exist in a test mode, include a vanilla MMUCC (Model Minimum Uniform Crash Criteria) form, a SAFER interface for motor carriers, Easy Street diagram tool, ability to use Oracle, handheld device interface, encryption of user files, a Visual Basic FTP program, an Enterprise version of TraCS, a Web based version of TraCS, and the ability to print bar codes on TraCS reports.

Currently in the State of Montana, there is no tracking system for statewide citations from their distribution to an enforcement agency, issuance to an offender, disposition by a court and posting to the driver history record (refer to Section 4-C).

The T&SB employs a fairly extensive effort to identify and analyze trends and problem areas related to traffic safety in Montana. Data that are used in this effort come primarily from motor vehicle traffic crashes, in addition to licensed drivers, registered vehicles, convictions, economic loss, vehicle miles of travel, population, and other measures of general exposure and demographics. Most of the tables in the report include ten years of data, which is helpful in validating short-term increases or decreases over a longer time period.

The Critical Analysis Reporting Environment (CARE) software system is used to provide direct access to traffic crash and incident information. CARE options are incorporated into windows that guide the user to their desired output. By following the directions provided, users obtain information on the screen or at the printer. CARE exists in two platforms: desktop and Web. The CARE desktop is designed to operate on PC-compatible microcomputers under all recent versions of Windows (e.g., 95, 98, NT, 2000, ME). In addition to providing added functionality for T&SB problem identification efforts, this easy-to-use point and click software tool could be easily shared with interested local users throughout Montana.

## **Recommendations**

- ◆ **Charge a multi-agency stakeholder group to develop a strategic plan to study efforts already underway, by FHWA, AASHTO, and others, which may be applicable to similar long-range efforts here in Montana.**
- ◆ Contact the University of Alabama, Engineering Department, to request assistance in obtaining a test version of CARE either on CD or by accessing the CARE Web site.

## **1-E: Evaluation**

### **Advisory**

*States should evaluate all impaired driving system activities regularly to ensure programs are effective and resources are allocated appropriately.*

### **Status**

A comprehensive Traffic Safety Problem Identification report provides a variety of information relating to crash, fatality, and injury trends associated with traffic safety in Montana. An automated and centralized traffic records system has not been established. Many records are maintained manually by various agencies such as individual law enforcement agencies, Department of Justice, treatment providers, and others. The transfer of information is cumbersome and time consuming. The ability to evaluate the many components of the impaired driving system is hindered since the data is not automated and thus makes it difficult to consolidate state or local level data for comparison, analysis and evaluation. Local communities and organizations have limited access to State traffic records information. The Bureau of Indian Affairs (BIA) does not provide traffic records data for use by the State of Montana even though seven reservations are located in the State. Population counts include Native Americans but the crash information is not captured.

Individual project evaluations are based on final reports submitted by subgrantees and are conducted by the T&SB staff assigned to prepare the annual report to NHTSA. The evaluations are used to determine future funding, assistance required, or changes to the project. The annual report consolidates all final reports and is condensed into a short report on the various program areas and problems addressed by the traffic safety funds during the year.

### **Recommendations**

- ◆ Provide training on interpretation and analysis of data reports and profiles distributed by the T&SB for use in problem identification, development of strategies, and project evaluations conducted by local groups.
- ◆ **Coordinate activities and involve BIA in traffic records systems development to encourage exchange of information with them.**

## **1-F: Funding**

### **Advisory**

*States should allocate funding to impaired driving programs that is adequate for program needs, steady (from dedicated sources) and, to the extent possible, paid by the impaired drivers themselves. The programs should work toward becoming self-sufficient.*

### **Status**

The Montana Traffic & Safety Bureau (T&SB) receives various types of federal funds and primarily relies on these as the main source of funding used to promote and coordinate traffic safety activities throughout the State. Limited human resources, mandated by State policy, have not allowed for expansion of programs and have limited the activities of the T&SB.

Montana has been successful in qualifying for Section 157 incentive federal funds based on the statewide seatbelt usage but has not been as successful in the impaired driving arena. The State has been sanctioned the last two years for failure to pass legislation to meet the federal criteria established under Sections 154 and 164. The transfer funds resulting from these sanctions have been directed to alcohol-countermeasure programs for use by T&SB. The Highway Safety plan reflects use of these funds for expansion of mobile data systems, in car video systems, and other programs. In addition, unless the state passes .08 Alcohol Concentration (AC) legislation to conform with federal regulations, it will again be sanctioned resulting in the withholding of, and possible loss of, millions of dollars in federal funds from the State's roadway construction funds.

Although efforts have been made to pass conforming legislation, it is uncertain whether the legislature will pass these laws within the next few years. If the State will not meet any of the impaired driving federal requirements for the funding noted, sanctions will continue to be imposed. If the funds continue to be directed to the traffic safety programs, this could provide an opportunity for the State to apply these funds for improving major programs. Programs requiring improvement include development of the traffic records system, funding community based or the County DUI task forces, or significantly expanding the public information and education campaign.

Under Montana law, funding for the local DUI task forces is generated from a driver license reinstatement fee that yields approximately \$500,000 per year. Half of these funds are retained for General Fund use and the remainder is to be distributed to the entities where the DUI convictions occurred for use in alcohol countermeasure programs. These funds are administered by the T&SB for compliance with existing laws and application of funds within the problem areas. This year the legislature did not provide any agency with the ability to administer or allocate the funds collected as a result of the reinstatement fee.

In the 1994 Impaired Driving Assessment, the recommendation was made to increase the reinstatement fee dedicated to the County Impaired Driving Program from one half of the fee to the full \$100.00 fee imposed.

## **Recommendations**

- ◆ **Coordinate efforts and enact legislation to conform to federal requirements.**
- ◆ **Enact legislation to provide language for the automatic annual distribution and administration of the driver license reinstatement fee once these have been collected.**
- ◆ Amend existing legislation to increase the reinstatement fee dedicated to the County DUI Programs from one half of the fee to the full \$100.00 fee imposed.

## **2. PREVENTION**

*Prevention programs seek to reduce impaired driving through approaches commonly associated with public health -- altering social norms, changing risky or dangerous behaviors and creating protective environments. Prevention and public health programs promote activities to educate the public on the effects of alcohol and other drugs, limit alcohol and drug availability and prevent those impaired by alcohol and other drugs from driving. Prevention programs are typically conducted in schools, work sites, medical and health care facilities and community groups. Each state should implement a system of impaired driving prevention programs and is strongly encouraged to work with the public health community to foster health and reduce traffic-related injuries.*

### **2-A: Public Information and Education for Prevention**

#### **Advisory**

*States should develop and implement public information and education (PI&E) programs directed at impaired driving. Programs should start at the state level and extend to communities through state assistance, model programs and public encouragement.*

#### **Status**

Montana does not have a formal written comprehensive plan for Public Information and Education (PI&E). However, the Traffic & Safety Bureau (T&SB) provides PI&E directly, through statewide campaigns and indirectly through providing materials and funding to numerous local programs.

The flagship PI&E effort is a statewide media campaign supported by federal funds through T&SB and designed and prepared by Montana State University. The campaign theme is “Most of Us.” The theme refers to results of recent surveys that showed a dramatic difference between young people’s perceived level of alcohol and other drug use and the level of reported use. For example, while young people believed that 18 to 24 year olds consume an average of seven drinks per occasion, the reported average number of drinks was three. Young people believed that 96 percent of their peers drove after drinking in the past month, but only 15 percent actually reported doing so. The “Most of Us” campaign includes media spots that are intended to provide a more accurate perception of the norm based on the survey results. A critical component of the program is the ability to purchase electronic media time to air spots that otherwise would have been broadcast only as public service announcements.

The Social Norming approach, which is the conceptual basis for the “Most of Us” campaign, has been implemented, evaluated, and shown to be effective on college campuses in several parts of the country. However, the size of the commitment (\$700,000) to this approach, almost to the exclusion of other messages, is a serious concern. Presenters from virtually every sector stressed that residents of Montana are characterized by the priority they place on personal freedom. This rugged individualism leads to complacency about impaired driving and alcohol abuse issues that is reflected in the reluctance of elected officials to implement additional DUI legislation or

support many DUI countermeasures. Changing the basic character of Montana is clearly beyond the purview of this assessment, T&SB, or the traffic safety community. However, efforts to make changes needed to protect public health will benefit from PI&E campaigns that challenge complacency about impaired driving and inform the public about the relationship of alcohol and substance abuse to loss of physical, personal, and social freedom.

The recently approved local SAFE KIDS / SAFE COMMUNITIES projects will include local PI&E efforts.

Montana does not make use of existing proven PI&E campaigns such as the *You Drink & Drive. You Lose.* campaign available from the National Highway Traffic Safety Administration (NHTSA).

Montana Highway Patrol does not have a statewide PI&E program but provides limited funds to each district office for use in providing PI&E efforts.

Alcohol and substance abuse PI&E projects are being conducted by local substance abuse prevention programs including the local State Incentive Cooperative Agreement (SICA) projects described in section 2-B.

## **Recommendations**

- ◆ **A comprehensive Public Information and Education (PI&E) plan should be developed to address all elements of public awareness, knowledge, and attitudes related to prevention of DUI.**

## **2-B: School Programs and Community Youth Programs**

### **Advisory**

*States should ensure that education and support of student programs, preschool through college and trade schools, play a critical role in preventing impaired driving.*

### **Status**

The Traffic and Safety Bureau (T&SB) has recently awarded funds to 21 local SAFE KIDS / SAFE COMMUNITIES projects. These programs will operate in community-based not-for-profit agencies. Each project will develop a plan for reduction of DUI and increased use of occupant protection, and provide a variety of prevention activities. The Public Information and Education (PI&E) messages used by the projects will utilize the “Most of Us” campaign described in section 2-A.

Many of these projects will be conducted by organizations that were previously involved in local DUI Task Forces. Funds for Task Forces were provided from license reinstatement fees collected from convicted impaired drivers. Current law allocates \$50 of each \$100 collected to support the local Task Forces. This year the legislature failed to appropriate the collected funds, essentially eliminating financial support for the Task Forces. This has been the cause of considerable concern and controversy since legislation still exists allocating the funds to the Task Forces.

Task Forces used funds for prevention activities, as well as overtime reimbursements, for special enforcement. Special emphasis was given to designated driver and safe-ride programs.

The Montana Department of Public Health and Human Services, Addictive and Mental Health Disorders Division is administering a \$9 million State Incentive Cooperative Agreement (SICA) prevention grant from the U.S. Center for Substance Abuse Prevention (CSAP). A request for proposals (RFP) was issued and grants were awarded to 11 communities to develop comprehensive community-based substance abuse prevention plans. These plans are based on the Communities That Care model that addresses multiple risk and protective factors shown to predict substance abuse, including impaired driving as well as violence, teen pregnancy, and school drop-outs. While some local DUI Task Forces have participated in local substance abuse prevention planning efforts, in many areas there has been minimal collaboration between local traffic safety efforts and the SICA projects. The result is duplication of efforts and a missed opportunity to maximize resources. The newly funded local SAFE KIDS / SAFE COMMUNITIES projects have an opportunity to coordinate their efforts and pool resources with local SICA coalitions.

Public schools in Montana are required to offer both comprehensive health education and driver safety education. The Montana Department of Public Instruction (DPI) offers comprehensive curriculum, but local districts are not required to use them. Local curriculum must meet state standards, but the process for approval is not strictly regulated. This creates a situation where local districts could offer little or no attention to DUI or other substance abuse issues or could be

providing inconsistent messages.

Schools in Montana receive federal Safe and Drug Free Schools funds on a student population formula basis. These funds are often used for PI&E materials and other substance abuse prevention programs to support health curriculum.

The Interagency Coordinating Council for State Prevention Programs (ICC) was established by legislation to require state agencies to develop a coordinated set of prevention services for substance abuse as well as child abuse, violence, school dropout, teen pregnancy, and sexually transmitted diseases. Under the ICC effort, the Office of Public Instruction prepares a biannual Evaluation Report on the status of prevention programs in schools in Montana. In the 2001 report, it was determined that a variety of health risks, including drinking while driving, remain as important issues facing Montana high school students. In addition, only five percent of schools have all eight recommended elements of a comprehensive alcohol, tobacco and other drug abuse prevention program. Over 73 percent of schools have fewer than five elements.

Some local police agencies provide officers to present the Drug Abuse Resistance Education (DARE) program in local schools.

Major university campuses in Montana have some substance abuse prevention programs with a significant emphasis on designated driver and safe ride programs. However, several recent events provide cause for concern about the environment and norms on campuses. For example, in the week prior to the assessment, one campus student paper promoted a “Pub Crawl” competition in which participants are challenged to consume a specialty drink at each of 26 bars. Participants were encouraged to “train” for the competition, which, if completed, would result in a Blood Alcohol Concentration (BAC) approaching the lethal dose for most drinkers. In fact, the local paper reported at least four competitors were treated for alcohol poisoning. This dangerous and irresponsible event was not sponsored by the University but indicates that a substantial number of students and at least 26 alcohol establishments have little concern for the well being of college students. In addition, at least one major University allows the sale of alcohol at major sporting events. This is no longer common practice in other States and adds to an environment that promotes the use of alcohol.

Various community and school-based programs have used one or more student surveys for planning and evaluation. The Safe and Drug Free Schools projects utilize the Youth Risk Behavior Survey (YRBS). SICA projects use a modified version of the Risk and Protective Factor Survey. The social norming project is using its own telephone survey. The duplication of survey efforts has resulted in some schools refusing to participate.

## **Recommendations**

- ◆ **Coordinate the efforts of local SAFE KIDS / SAFE COMMUNITIES projects, local SICA, and other substance abuse prevention coalitions.**
- ◆ **Reinstate funds for local DUI Task Forces consistent with existing legislation.**
- ◆ Encourage all schools to implement comprehensive health curriculum with substantial

material related to DUI and alcohol and substance abuse related issues.

- ◆ **Establish a task force to conduct a comprehensive review of college DUI and substance abuse prevention programs including campus alcohol policies and make recommendations for creating a healthy environment in relation to use of alcohol.**
- ◆ **Coordinate survey data collection efforts and share results.**

## **2-C: Employer Programs**

### **Advisory**

*States should provide information and technical assistance to all employers, encouraging them to offer programs to reduce impaired driving by employees and their families.*

### **Status**

Montana has few large employers. As a result, there are few opportunities for traditional approaches to employer programs. Some large employers have substance abuse policies that include prohibitions on use while at work and conduct random drug testing. Developing and implementing prevention programs in small employers is a challenge because of cost and confidentiality issues.

T&SB provides traffic safety materials to employers.

### **Recommendations**

- ◆ Continue distribution of traffic safety materials to employers.

## **2-D: Alcohol Availability and Responsible Alcohol Service**

### **Advisory**

*States should promote responsible alcohol service policies and practices in the retail alcohol service industry, including package stores, restaurants and taverns, through well-publicized and enforced laws, regulations and policies.*

### **Status**

Montana requires licenses for the sale of alcohol for on premise consumption in a variety of settings, including taverns and restaurants, as well as a variety of special settings, such as cabarets, resorts, and special events. For off premise consumption, Montana is one of 18 “control” states, that is, all distilled spirits and fortified wines are available only from state operated stores. However, Montana recently transferred operation of state controlled stores to private vendors. In addition, distilled spirits by the bottle are available in taverns on a limited basis. Beer and table wines for off premise consumption are available at numerous types of licensed outlets, including convenience stores, drug stores, and supermarkets.

Licenses are allocated on a quota or population formula basis; however, there are many licenses available that pre-date the current law. In most areas, this means that no new licenses can be issued. The result is that existing licenses have developed a significant market value, in some cases in excess of \$300,000. In addition, many areas, including the largest cities, have about twice as many licenses as would be allowed by the quota. The city of Helena has adopted a new class of license, which further increased the number of outlets.

Overall, the numerous exceptions to the basic law have created a situation, which some have characterized as liberalization of licensing. In any case, alcohol is seems to be readily available throughout Montana. In some parts of the State, the sale of alcohol at youth sporting events, such as little league games, is indicative of this availability.

Sale of alcohol is restricted to the hours of 8:00 a.m. and 2:00 a.m.

Montana does not have prohibitions on promotions such as happy hours or free drinks.

While Montana law includes basic Dram Shop provisions, there are some differences of opinion regarding the strength of the law. A recent Supreme Court ruling eliminated the admissibility of intervening events in the assignment of liability to servers of alcohol. This appears to have led to greater likelihood of successful civil actions against establishments that serve intoxicated individuals who injure themselves or others.

Montana has no requirement for responsible server training. Several companies with multiple convenience stores, casinos, or other outlets have training programs for employees.

Montana does not have a keg registration law.

## Recommendations

- ◆ **Enact legislation to prohibit or restrict promotions such as happy hours and free drinks.**
- ◆ Inform victims of impaired drivers about their legal rights under Dram Shop statutes.
- ◆ Enact legislation that would require mandatory server training.
- ◆ Enact a keg registration law.

## 2-E: Transportation Alternatives

### Advisory

*States should promote alternative transportation programs that enable impaired individuals to reach their destination without driving.*

### Status

Many local traffic safety projects in Montana rely heavily on Designated Driver and Safe Ride programs. Figures were presented indicating frequent use of these programs. However, some of these programs have elements that potentially promote the use of alcohol. For example, one program reported giving designated drivers coupons for free alcoholic drinks on a subsequent visit to the participating tavern. While some of these programs specify that they are not intended for underage drinkers, some are directed at college students many of whom are likely to be younger than 21.

Heavy consumption of alcohol always represents a serious health risk. Designated driver and safe ride programs can be effective in keeping impaired individuals from driving. However, research has shown that such programs, when not accompanied by safeguards and health risk information, can enable individuals to drink to excess with negative health, personal, or legal consequences.

Alternative transportation is virtually not available in Montana due to the extreme rural nature of the State.

### Recommendations

- ◆ Include designated driver and safe ride programs in comprehensive DUI and alcohol abuse prevention programs.
- ◆ **Assure that all designated driver and safe ride programs are designed to include health risk information, prohibit participation by underage or other high-risk drinkers and discourage over-consumption.**

### **3. DETERRENCE**

*Deterrence programs seek to reduce impaired driving through activities that create the maximum possible fear of arrest and punishment among persons who might be tempted to drive under the influence of alcohol or other drugs. Close coordination with law enforcement agencies at the municipal, county and state levels is needed to create and sustain the fear of arrest. Equally close coordination with courts and the motor vehicle licensing and registration agency is needed to enhance the fear of punishment. Effective use of all available media is essential to create and maintain a strong public awareness of impaired driving enforcement and sanctions.*

*Each state should implement a system of programs to deter impaired driving. The deterrence system should include legislation, public information and education, enforcement, prosecution, adjudication, criminal sanction, alcohol and other drug screening/diagnosis/referral to treatment, driver licensing and vehicle registration activities.*

*[Note: Some of this material is also addressed in Section 4: Driver Licensing and Section 5: Treatment and Rehabilitation.]*

#### **3-A: Laws to Deter Impaired Driving**

##### **Advisory**

*States should enact laws that define and prohibit impaired driving in broad and readily enforceable terms, facilitate the acquisition of evidence against impaired drivers and permit a broad range of administrative and judicial penalties and actions.*

##### **Status**

Montana has an assortment of laws to address the impaired driving problem. The laws fall into several categories as follows:

- Offenses, including driving under the influence of alcohol or drugs (DUI), operating a vehicle with an alcohol concentration of .10 or more (per se law), and youthful offender laws.
- Penalties, including mandatory penalties and repeat offender-enhanced penalties.
- Sentencing tools including ignition interlock device, vehicle forfeiture, and mandatory assessment and treatment.
- Administration and evidence, including implied consent to both alcohol concentration test and preliminary breath test.
- Alcohol server laws.

## Offenses

The DUI offense consists of three (3) elements, as follow:

- 1) driving or actual physical control of a motor vehicle;
- 2) upon the public ways;
- 3) while under the influence of alcohol, drugs, or both.

The last element requires proof that the driver's ability to operate a motor vehicle was diminished. Under the influence of drugs requires a nexus between the ingestion of drugs and impairment. This element is extremely difficult to prove and renders DUI/drugs barely enforceable.

The per se law is alcohol specific. This offense also has three elements with the first two elements being the same as the first two elements of DUI. The third element is an alcohol concentration of .10 or more in the driver's blood or breath. A diminished capacity to operate a motor vehicle does *not* have to be proved.

Both DUI and per se are absolute liability offenses.

A youthful offender (under age 21) can be charged under either the DUI or per se law. In addition, youthful offenders have a separate alcohol concentration standard of .02 (zero tolerance law). Other than the .02 standard, the elements of this crime are the same as the adult per se law. A conviction under the youthful offender per se law does not count as a prior conviction for purposes of enhancing the sentence of a DUI or adult per se offense.

Minors in possession (MIP) of alcohol face a license suspension if there is a nexus between the possession and operation of a motor vehicle. Juveniles (under age 18) charged with DUI, per se, zero tolerance, or MIP are prosecuted in adult jurisdiction courts.

There are not specific offenses for DUI/per se resulting in death or bodily injury. These types of acts are prosecuted under negligent homicide and negligent endangerment statutes.

A chronic DUI/per se offender can be prosecuted as a persistent felon, which carries a prison term up to 100 years. There is a habitual traffic offender (HTO) status in Montana that results in a three-year administrative license suspension. A person who drives in violation of an HTO suspension commits a misdemeanor offense.

A commercial motor vehicle (CMV) operator who tests .04 or greater faces an administrative license suspension ranging from one year to life and other penalties conforming to federal requirements.

Other Laws

Alcoholic beverage distribution regulations do not require keg registration upon purchase, nor are there restrictions upon free distribution of alcoholic beverages, happy hour reduced prices, two for one, or other promotions involving distribution. Also, regulations allow persons 18 and over to serve alcoholic beverages, and persons 19 and over can own an alcoholic beverage distribution license.

Montana’s dram shop common law places strict liability upon a business alcohol server who serves alcohol to an obviously intoxicated person. The server is liable for damages caused by the intoxicated person arising from his or her intoxication.

Penalties and Sentencing Tools

The DUI and per se offense penalty scheme is graduated as the number of convictions increases.

A second or third offense conviction requires that the conviction occur within five years of a previous conviction. However, a fourth offense is not restricted to the five-year limitation. A violation of either offense does not become a felony until a fourth offense. None of the sentences can be deferred. A conviction under either law counts as a predicate offense for the other when determining sentencing or charging enhancement. The DUI penalties are as follows:

	<b>Fine</b>	<b>Minimum Sentence</b>	<b>Maximum Sentence</b>	<b>Minimum Imprisonment</b>	<b>Driver’s License Suspend/Revoke</b>	<b>Probation</b>
<b>1<sup>st</sup> offense</b>	\$100 – 500	1 day	6 months	24 consecutive hrs/county jail	Suspend 6 months	6 months
<b>2<sup>nd</sup> offense</b>	\$300 – 500	7 days	6 months	48 consecutive hrs/county jail	Revoke 1 year	6 months
<b>3<sup>rd</sup> offense</b>	\$500 - 1,000	30 days	1 year	48 consecutive hrs/jail	Revoke 1 year	1 year
<b>4<sup>th</sup> offense</b>	\$1,000 - 10,000	6 months	13 months	6 months	Revoke 1 year	1 - 4 years

The per se offense penalties are as follows:

	<b>Fine</b>	<b>Minimum Sentence</b>	<b>Maximum Sentence</b>	<b>Minimum Imprisonment</b>	<b>Driver’s License Suspend/Revoke</b>	<b>Probation</b>
<b>1<sup>st</sup> offense</b>	\$100 – 500	0 days	10 days	No applicable	Suspend 6 months	10 days
<b>2<sup>nd</sup> offense</b>	\$300 – 500	2 days	30 days	48 consecutive hrs/county jail	Revoke 1 year	30 days
<b>3<sup>rd</sup> offense</b>	\$500 – 1,000	2 days	6 months	48 consecutive hrs/county jail	Revoke 1 year	6 months
<b>4<sup>th</sup> offense</b>	\$1,000 – 10,000	30 days	1 year	6 months	Revoke 1 year	1 - 4 years

The license suspension penalty upon conviction is administrative. The court does not impose the suspension. The justice department is clothed with authority to impose a restricted probationary license without any input from the court and without limits upon the number of convictions an offender has incurred in a lifetime. This license is required to be restricted to driving a vehicle equipped with an ignition interlock device.

In addition to the above penalty scheme, vehicle forfeiture is mandatory for a third or subsequent offense. The motor vehicle owned and operated by the offender at the time of the offense shall be seized by the court and disposed, subject to any secured interest. Also, an offender whose license is suspended or revoked for a DUI/per se conviction and subsequently is convicted of driving while license suspended or revoked shall have the vehicle owned and operated at the time of the offense seized and rendered inoperable for 30 days.

All offenders convicted of DUI/per se offenses shall complete a chemical dependency assessment, a chemical dependency education course, and, on a second or subsequent offense, chemical dependency treatment. Furthermore, a first offender shall be ordered into chemical dependency treatment if the assessment indicates a dependency.

Home arrest is a sentencing option for that part of a jail sentence that exceeds the minimum imprisonment time. Ignition interlock devices are mandatory for second or subsequent offenders if they receive a restricted probationary license during a period of revocation. Ignition interlock devices are discretionary with the sentencing court on a first offense if the offenders alcohol concentration was .18 or greater.

In many jurisdictions the immediacy and certainty of execution of a mandatory jail sentence is compromised by jail overcrowding and a delay in serving the sentence.

The youthful offender penalty scheme is also graduated as the number of convictions increase. All youthful offenders must comply with chemical dependency education and treatment as ordered by the court. A distinction is made between youthful offenders in the 18-20 age range, and those under age 18. Offenders under age 18 cannot serve time in jail. In addition, offenders under the age of 18 are subject to a license suspension or revocation at the discretion of the court. Also, the vehicle of the under 18 offender is subject to impoundment up to 60 days.

	<b>Fine</b>	<b>Minimum Sentence</b>	<b>Maximum Sentence</b>	<b>Minimum Imprisonment</b>	<b>Driver's License Suspend/Revoke</b>
<b>1<sup>st</sup> offense</b>	\$100 – 500	N/A	N/A	N/A	Suspend 90 days
<b>2<sup>nd</sup> offense</b>	\$200 – 500	0 days	10 days	N/A	Suspend 6 months
<b>3<sup>rd</sup> offense</b>	\$300 – 500	1 day	60 days	24 consecutive hours	Suspend 1 year

## Administration and Evidence

Montana has an implied consent law that applies to both an alcohol concentration test (Intoxilyzer 5000) and a Preliminary Breath Test (PBT) for alcohol only. The PBT is a field test that is administered for the purpose of establishing probable cause to arrest. Refusal to submit to either test results in either a suspension or revocation for up to one year. Suspension occurs upon a first refusal. Revocation occurs upon a second or subsequent refusal within five years. No restricted probationary license can be issued during a suspension or revocation for implied consent refusal. A suspension or revocation for an implied consent test refusal is subject to review by the district court. Offenders may request an independent blood draw, at their expense. An officer may not impede this right and may transport the person to a medical facility to accomplish the draw.

A PBT may be used only if the police officer and the PBT instrument have been certified by the Department of Justice. In addition, alcohol concentration tests shall be conducted in accordance with uniform rules promulgated by the Department.

A .10 or greater alcohol concentration in an offender's blood or breath at the time of the test, and taken within a reasonable time after the alleged act, gives a rebuttable inference that the offender was under the influence of alcohol. A test result in excess of .04 but less than .10 does not give rise to an inference of being under the influence of alcohol, but it may be considered with other competent evidence at trial. A test of .04 or less creates a non-rebuttable inference that the person is not under the influence of alcohol.

State statute allows a breath test refusal to be admitted into evidence. Also, a result of a PBT is admissible into evidence as proof that the person was under the influence of alcohol. Horizontal Gaze Nystagmus (HGN) is admissible into evidence only for the purpose of establishing probable cause to arrest for DUI/per se. HGN evidence can only be admitted through an expert witness.

Cities and municipalities may enact DUI and per se ordinances. The city or municipality has jurisdiction of enforcement of the ordinances and imposition of penalties.

Montana law requires a DUI/per se offender to pay a license reinstatement fee of \$100. One-half of this fee must be appropriated for use by the county to fund drinking and driving prevention programs. In many jurisdictions this money was used to fund local DUI task forces. The legislature is not in compliance with this law and is withholding money from the counties.

Montana does not have an administrative license revocation (ALR) law, a .08 alcohol concentration standard, or an alcoholic beverage open container law. However, some cities and municipalities have enacted open container ordinances. Recommendations were made during the 1994 Impaired Driving Assessment to enact legislation establishing .08, ALR, and open container laws.

## Recommendations

- ◆ Clarify the DUI statute as it applies to being under the influence of drugs.
- ◆ **Enact .08 alcohol concentration as the presumptive standard for being under the influence of alcohol.**
- ◆ Enact a keg registration law.
- ◆ Prohibit alcoholic beverage distribution promotions, including free distribution of alcohol.
- ◆ Make 2<sup>nd</sup> or subsequent DUI/per se conviction a felony offense.
- ◆ Re-evaluate the process for driver licensing suspension and restricted probationary license granting upon DUI/per se conviction.
- ◆ **Prohibit convicted DUI/per se offender to receive a restricted probationary license in lieu of suspension or revocation.**
- ◆ **Dedicate more resources to carry out the DUI enforcement, prosecution, and adjudication scheme, including resources to allow mandatory sentences to be fulfilled immediately and with certainty.**
- ◆ Repeal the right of an offender to seek an independent blood draw for alcohol concentration testing with assistance from the arresting officer.
- ◆ Repeal the non-rebuttable inference that a person with an alcohol concentration of .04 or less is not under the influence of alcohol.
- ◆ **Disperse to the counties 100 percent of the driver license reinstatement fee to fund local drinking and driving prevention programs.**
- ◆ **Enact an Administrative License Revocation (ALR) law.**
- ◆ Enact an open container law.

### **3-B: Public Information and Education for Deterrence**

#### **Advisory**

*States should implement public information and education (PI&E) programs to maximize the public's perception of the risks of being caught and punished for impaired driving.*

#### **Status**

The Montana Department of Transportation Traffic and Safety Bureau (T&SB) has earmarked funding for public information campaigns that target the impaired driver. The T&SB is developing strategies to educate the public on the consequences of Driving Under the Influence (DUI).

The T&SB will be buying media time, primarily radio spots, because of their effectiveness and the cost. A portion of the media spots will be aimed at the impaired driver.

The T&SB has contracted for a public opinion survey with the Department of Public Health and Human Services since 1984. Survey data are used to develop Public Information and Education (PI&E) programs.

The County DUI Task Forces were responsible for printing and distributing a variety of impaired driving educational materials. Due to recent legislative action that removed the task forces' funding, they do not have the resources for sustained educational efforts.

The Montana Social Norms project, administered by Montana State University and funded by the T&SB has a DUI educational component that is targeting a wide variety of motorists. Part of the focus of this program is the impaired driver.

Within the State, there are various PI&E campaigns that target underage drivers. These campaigns are not part of a strategic plan.

The State has eleven Native American tribes on seven reservations; however, a review of PI&E materials did not reveal programs that target this segment of the population.

The State has developed seasonal DUI educational programs, such as the Fourth of July and other holiday efforts. Some grantees participate in the National Lights on for Life campaign during the month of December, but there is no organized effort for this campaign by the State.

Although there are numerous PI&E campaigns aimed at the impaired driver, these campaigns are not incorporated into the Highway Safety Plan or a separate comprehensive annual plan for PI&E efforts.

## Recommendations

- ◆ **Develop a comprehensive and innovative statewide annual Public Information and Education plan.**
- ◆ **Educate the general public on all aspects of impaired driving through a series of Town Hall meetings that will feature traffic safety as a quality of life issue. These meetings can serve as a conduit for the public to provide input on statewide DUI efforts.**
- ◆ Develop a newsletter that is provided and distributed in a timely manner to strengthen the Public Information and Education effort.
- ◆ Expand public private partnerships to have a focused and significant impact on impaired driving. This recommendation requires the involvement, ingenuity, commitment, and resources of a multitude of individuals and organizations.
- ◆ Participate in the national *You Drink & Drive. You Lose.* campaign.
- ◆ **Establish an ongoing publicity campaign that includes all law enforcement agencies regarding their impaired driving enforcement and education efforts.**
- ◆ Appoint a liaison from the T&SB to work with Native American tribes.
- ◆ Establish annual workshops for media and law enforcement to enhance DUI education efforts.
- ◆ Organize various groups for support of county DUI task force continued funding.

### **3-C: Enforcement**

#### **Advisory**

*States should implement comprehensive enforcement programs to maximize the likelihood of detecting, investigating, arresting, and convicting impaired drivers.*

#### **Status**

Alcohol-related crashes accounted for 9.9 percent of all reported traffic crashes during 2000. While this percentage is above the all time low reached in 1996, it is still below the 22.3 percent of alcohol-related crashes reported during 1983.

The Montana State Highway Patrol (MHP) is primarily responsible for traffic investigation and enforcement on the major highways and unincorporated areas of the State. The MHP accounted for 1,480 DUI convictions in the State for 2000.

The police departments and Sheriffs agencies enforce DUI laws within their respective jurisdictions. The police departments were responsible for 2,322 DUI convictions and the Sheriff's 1,624. The State does not require reporting on the total number of arrests, only DUI convictions; however, most agencies maintain this information.

One of the more effective enforcement programs was law enforcement's participation in the local DUI Task Forces. These task forces provided overtime funding and other resources to the law enforcement agencies within the participating counties. DUI task forces are no longer funded by the state and task force personnel are currently re-evaluating their operating strategies.

The Montana Board of Crime Control provides funds to local jurisdictions for youth alcohol access reduction and enforcement projects. The Board's goal is to reduce the sale and consumption of alcohol by minors; however, few law enforcement agencies have applied for the funding.

Updated Standardized Field Sobriety Testing (SFST) and Horizontal Gaze Nystagmus (HGN) training is provided to all officers in the State on a regional basis. They also receive intoxilyzer training. The State uses the Intoxilyzer 5000 breath testing device. Some law enforcement personnel from small agencies do not receive SFST training within the first year of their employment. Furthermore, some officers in small counties must drive great distances to use intoxilyzers, which discourages DUI arrests.

Montana does not have a Drug Evaluation and Classification program and there are no Drug Recognition Experts (DREs). In some cases, courts do not recognize HGN. It appears that court-approved enforcement countermeasures for DUI cases vary greatly from county to county.

Although sobriety checkpoints have been ruled constitutional and are used as a DUI deterrent throughout the country, they are not used in the State of Montana. Law enforcement safety spot checks incorporate the following: insurance, license registration,

and equipment violations. In the past, the MHP conducted safety spot checks that incidentally found some DUI offenders. Also, in previous years, the MHP conducted or participated in multi-jurisdictional safety spot checks. The MHP has elected not to participate in safety spot checks due to their staff requirements.

All MHP patrol cars are equipped with in-car video cameras that have proven to be highly effective during DUI court trials. Additionally, various other law enforcement agencies also effectively use in car cameras.

Preliminary breath test (PBT) devices are used extensively by law enforcement agencies throughout the State. DUI juries place a lot of value on alcohol concentration test, PBT results, and videotape evidence.

The average Alcohol Concentration (AC) for DUI arrests remains consistent at .18. This high AC level appears to be the result of the large number of individuals who refuse to submit to AC tests. Further compounding the problem is the need for an administrative license revocation (ALR) law.

The State has a vehicle impoundment law for multiple offenses, but the law is not administered on a regular basis.

Some medical facilities within the State do not cooperate with law enforcement officers by refusing to draw blood from unconscious felony DUI suspects.

State and local law enforcement agencies appear to have good working relationships, but multi-jurisdictional programs involving DUI were not evident.

Montana has not enacted .08 AC, open container laws, and ALR laws.

The MHP has responsibility for Motor Carrier Safety Assistance Program (MCSAP). This program is not used specifically to target commercial vehicle drivers who are impaired because MCSAP personnel are non-sworn. However, procedures exist to take action against commercial drivers that may be driving under the influence.

There are numerous community-based organizations that are funded by T&SB that have a DUI component. Few law enforcement agencies partner with these groups.

There is no widespread effort to bring together law enforcement, prosecutors, and members of the court.

## **Recommendations**

- ◆ Encourage the participation of law enforcement agencies in multiple jurisdiction enforcements efforts.
- ◆ **Enact .08 AC, open container, and ALR laws as measures to reduce DUI.**

- ◆ **Establish an annual statewide law enforcement and prosecutors DUI conference to ensure quality DUI arrests and prosecutions.**
- ◆ Establish an annual DUI conference for Judges.
- ◆ Provide mandatory refresher training in SFST for all law enforcement personnel that are enforcing DUI laws.
- ◆ Establish an Attorney General's quarterly regional meeting to be hosted by the Montana Highway Patrol to discuss DUI enforcement and legislative proposals.
- ◆ **Re-establish funding for county DUI task forces.**
- ◆ Encourage the Montana Highway Patrol to participate in or organize safety spot checks that are in compliance with state laws.
- ◆ Install and maintain intoxilyzers in all counties.
- ◆ Seek multi-disciplinary support for the acceptance of sobriety checkpoints.
- ◆ Encourage local law enforcement to conduct sting operations to reduce underage drinking.

### **3-D: Prosecution**

#### **Advisory**

*States should implement a comprehensive program for visible and aggressive prosecution of impaired driving cases.*

#### **Status**

Two separate officials administer the prosecution of driving under the influence (DUI). County attorneys primarily prosecute felony DUI and other alcohol-related felony offenses, such as negligent vehicular homicide and negligent endangerment. City attorneys prosecute misdemeanor DUI. In some jurisdictions county attorneys prosecute misdemeanor DUI under an agreement with the local city attorney. County attorneys are elected to four-year terms in each of the 56 counties. City attorneys are appointed at the pleasure of the city council. Felony DUI is assigned to district court. Misdemeanor DUI is assigned primarily to courts of limited jurisdiction (i.e. justice courts, city courts, and municipal courts).

County attorneys receive continuing education twice a year. DUI education occasionally appears on the curriculum. Continuous changes occur with DUI law through appellate rulings of the Supreme Court. City attorneys do not attend the continuing education programs of the county attorneys and do not receive the same. There are no organized, regular continuing legal education (CLE) programs for city attorneys. City attorneys acquire CLE and DUI training individually. City attorneys receive their continuing education independent of county attorneys. Much DUI education occurs by word of mouth, exchange of ideas, and self-teaching. This results in non-uniform interpretation of a constantly changing arena of law.

Inexperienced prosecutors usually handle prosecution of DUI at any level. Traffic court and traffic offenses are recognized as a training ground for prosecutors. Rookie mistakes are made at this level that result in acquittals. Once a prosecutor gets a feel for the specialty of this offense, he or she moves on to felony court and another inexperienced and untrained prosecutor takes over the traffic court caseload.

Competition sometimes exists between the county attorneys and city attorneys resulting in turf protection and a lack of exchange of information between two agencies entrusted by the citizens with carrying out the same law enforcement duties.

There is inconsistency in opinions as to some prosecution tools and strategies. Law enforcement believes that the current state of the law prohibits admissibility of Horizontal Gaze Nystagmus (HGN) evidence. However, the prosecutors and trial judges believe that it is admissible through an expert witness for the limited purpose of establishing probable cause. Justice Department juvenile authorities and some judges believe that juvenile DUI cases are assigned to youth court. However, the prosecutors believe that juvenile DUI can be placed in adult court. Some law enforcement officers believe that current law also prohibits admissibility of Preliminary Breath Test (PBT) alcohol concentration measurements, but other law enforcement officers and the prosecutors believe that it is admissible. There is a mixed opinion as to the use of sobriety

checkpoints. Some believe checkpoints are prohibited by law, others believe that it is rejected by official directive, and others believe it is permissible to utilize.

Some jurisdictions allow for dispositions and remedies contrary to law, such as sentence deferral, return of license, and disregard of minimum imprisonment. There is no higher authority taking action to reverse these applications which are contrary to existing DUI law, nor is there public accountability. There appears to be much independence among the jurisdictions. Localized independence results in separate standards, a selective application of DUI laws, and inequities within the justice system. There is a severe lack of communication between prosecutors across the State.

Prosecution is dependent on alcohol concentration measurement and evidence of visual impairment. Juries, and some judges, rely heavily upon a breath or blood test result and videotape evidence. Absence of either tends to lead to acquittal of a DUI offender. The rate of refusal to submit to an alcohol concentration test runs between 35 and 45 percent statewide.

Defense attorneys regularly advise clients to refuse to submit to an alcohol concentration test because they know that prosecutors are reluctant to try a DUI case without an alcohol concentration measurement. Administrative license suspension has little deterrent effect for implied consent refusal.

The limited jurisdiction courts are courts of non-record. An appeal of a conviction from these courts is a trial de novo in district court. In some jurisdictions this is a waste of time, manpower, and resources because the prosecutor ends up trying the case twice; however, they continue to assign cases to the limited jurisdiction courts. In other jurisdictions, trial de novo appeals hardly ever occur.

It is believed that most jurisdictions do not charge bargain DUI offenses to a reckless driving; however, this practice has not been totally eliminated. Sentence bargaining does occur on a regular basis. Lack of resources and manpower causes prosecutors to prioritize their caseload and plea bargain DUI cases.

## **Recommendations**

- ◆ **Require annual DUI training for county and city attorneys.**
- ◆ Implement cross-discipline DUI training involving county attorneys, city attorneys and law enforcement officers.
- ◆ **Implement statewide communication channels among county and city attorneys.**
- ◆ Clothe the State Attorney General with authority to intervene in jurisdictions where application of mandatory DUI laws are ignored.
- ◆ **Enact a separate offense for refusal to submit to an alcohol concentration test with penalties equivalent to that of DUI.**

- ◆ Make courts of limited jurisdiction courts of record or in the alternative, assign DUI cases to district court.
- ◆ Provide sufficient resources to county and city attorneys to allow them to prosecute DUI cases.

### **3-E: Adjudication**

#### **Advisory**

*States should implement a comprehensive impaired driving adjudication program to ensure the effectiveness of prosecution and enforcement efforts.*

#### **Status**

The Montana court system consists of the Supreme Court, district courts, and courts of limited jurisdiction. The Supreme Court is the only appellate level court in the State and is comprised of seven justices. District courts are the general jurisdiction trial courts for the State and also preside over youth court. The limited jurisdiction courts are also trial courts and consist of justice, city, and municipal courts. There are 22 judicial districts with 40 judges. There are 70 justice of the peace courts, 83 city courts, and five municipal courts. There are a total of 110 judges serving the 158 limited jurisdiction courts. All levels of judges are selected through non-partisan elections. District court judges serve six-year terms and limited jurisdiction judges serve four-year terms. District court judges are required to be attorneys. Limited jurisdiction judges do not have to be attorneys. There are 19 limited jurisdiction judges who are attorneys and 91 who are laypersons.

Both the district courts and courts of limited jurisdiction have concurrent jurisdiction over misdemeanor DUI. District courts hear DUI cases when the prosecutor elects to file a DUI felony such as fourth offense, negligent homicide, or negligent endangerment. If a juvenile DUI offense should go into youth court rather than adult court, then it will be placed in district court. However, the majority of juvenile DUI cases are assigned to adult court. Also, the district court serves as a trial de novo appellate court for DUI convictions arising from the courts of limited jurisdiction. Most misdemeanor DUI prosecutions occur in the courts of limited jurisdiction.

All judges are required to follow the Canons of Judicial Conduct. Violations of the Canon are subject to sanctioning before the Judicial Standards Commission.

Limited jurisdiction judges are required to pass a certification test before assuming the bench, and they must pass re-certification tests every four years thereafter. They also are required to attend semi-annual continuing education sessions. Between 30 and 32 hours of education are offered to the limited jurisdiction judges annually. Failure to attend is grounds for removal. DUI topics are covered annually.

District court judges have semi-annual meetings that include continuing education sessions. They are required to attend at least one meeting per year and are required to attain 15 hours of continuing education annually. DUI education occurs less frequently for district court judges than for limited jurisdiction judges.

Supreme court rulings appear to make as much DUI law as the legislature. The flaws of the statutory language account for appeals that, in turn, account for court-made law rather than legislature-made law. These frequent appellate interpretations require regular continuing

education of the judges.

Limited jurisdiction courts generally do not have probation departments. They retain some post-conviction jurisdiction over the DUI offender by suspending sentences and imposing conditions of a suspended sentence. However, there is no direct supervision of the offenders' suspended sentence. Lack of supervision allows for offenders to avoid accountability for conditions of their sentence, such as restitution to victims and compliance with assessment and treatment. Probation and parole services are offered by the Department of Corrections and are removed from the jurisdiction of the judicial system.

There is a plethora of inconsistency among the jurisdictions in adjudication practices, dispositions, and interpretation of the law. The DUI statutory language can be very generic and, sometimes inconsistent, which allows trial courts to make their own interpretations of the law. Collegiality among the court, the prosecutor, and the defense bar in the smaller jurisdictions account for lack of trial de novo appeals of DUI convictions from the limited jurisdiction courts. Also, the vast expanse of the State, and even the vast expanse of many counties leads to the inconsistency in adjudication and interpretation. Despite statutory prohibitions, some courts allow deferral of sentence. Others overlook mandatory penalties. There is no authority challenging these erroneous dispositions. The perception of some citizens is that the methods of disposition of DUI cases in the courts have no deterrent effect. There is also a perception that the inconsistencies noted are a result of non-legally trained judges adjudicating DUI cases. There also is much concern that adjudication of youthful offenders is lackadaisical and tends to take an approach of "kids will be kids."

Any driver license suspension or revocation within the DUI arena is an administrative sanction. The courts do not impose license suspension or revocation as a part of a sentence. The court's responsibility is merely to confiscate the license and forward it to the Department of Justice for administrative sanctioning. Requests for restricted probationary driving privileges or appeals of suspensions occur with the Department of Justice. The 1994 Montana assessment recommended that judges be removed from the licensing process. However, it appears that the Department of Justice administration of license suspension and revocation has not solved the problem.

## **Recommendations**

- ◆ Make courts of limited jurisdiction courts of record or in the alternative, assign DUI cases to district court.
- ◆ Draft DUI statutes with clear, bright-line language, to disclose legislative intent.
- ◆ **Draft and interpret DUI statutes in a manner that allows consistent adjudication among the jurisdictions.**
- ◆ Educate trial judges as to their duty to follow the law as it exists and to comply with the Canons of Judicial Conduct.
- ◆ Provide more frequent DUI education to district court judges.

- ◆ **Include within DUI judicial education curriculum that teach the dynamics and character traits of alcoholism and alcohol abuse, and the ways in which court practices can serve as tools of enabling, co-dependence, and denial for the alcoholic or alcohol abuser.**
- ◆ **Make probation services available to all courts adjudicating DUI.**
- ◆ **Re-assign supervision of probation officers to the judicial system and away from the Department of Corrections. Provide resources to courts and allow them to hire probation officers.**
- ◆ Discipline judges who overtly refuse to uphold their oath to obey and follow the law.
- ◆ Include within DUI judicial education curriculum that is sensitive to juvenile alcohol issues.

## **4. DRIVER LICENSING**

*Motor vehicle administrators are in a unique position to address highway safety problems. They routinely come in contact with every driver on a formal basis. Programs implemented by the motor vehicle agency can prevent or deter the incidence of impaired driving as well as effect the treatment and rehabilitation of impaired drivers. For example, controls in the licensing process can prevent the issuance of a license to an individual with an alcohol or other drug problem and the use of administrative license revocation (or suspension) can deter impaired driving.*

### **4-A: Prevention**

#### **Advisory**

*Each state should have a licensing/registration system that reinforces the deterrence and prevention of impaired driving, as well as fosters the treatment and rehabilitation of impaired drivers.*

#### **Status**

In 2000, the Motor Vehicle Division (MVD), within the Department of Justice (DOJ), began issuing a new, more secure driver license, which includes a digital image of the cardholder, ghost imaging, ultraviolet (UV) printing, a 2-D barcode, and a laminate coating with optically variable images. MVD is responsible for driver licensing and vehicle registration functions in Montana. To introduce the new license, MVD produced a brochure, "Montana Driver Licenses and Identification Cards." Examples of public information describing driving under the influence (DUI) in Montana include the Montana Driver's Manual, which is published in a newspaper format and brochures, "Habitual Offender," and "Montana's Alcohol Interlock Program." This information is supplemented by brochures provided by the Traffic & Safety Bureau (T&SB), such as, "Drinking Decisions – A Driver's Guide," "BAC Blood Alcohol Concentration And You," and "Responsible Alcohol Sales." These brochures include information regarding drinking and driving, knowing your limits, signs of intoxication, and DUI penalties. The 15-page Driver's Manual contains detailed information covering a variety of topics, including the Drivers License, Before You Drive, Rules of the Road, Safe Driving Tips, In Shape to Drive, Emergencies, and a Quick Reference to Motor Vehicle Information in Montana.

An extensive public information effort aimed at seat belt enforcement and graduated licensing earlier this year included an 11-minute video, "Standard Seat Belt Enforcement & Graduated Licensing – An Investment in Montana's Future." Produced by the T&SB, the Department of Public Health & Human Services, and the SAFE KIDS / SAFE COMMUNITIES Project of Healthy Mothers and Healthy Babies, this video examines these issues from the perspective of those who deal with them every day. It provided an excellent starting point for families, organizations, and communities to discuss these important issues. Unfortunately, the State remains without a graduated driver licensing (GDL) system for novice drivers and is challenged to achieve this goal within the next couple years.

MVD continues to administer a program that allows a young novice driver to obtain an

instruction permit and enter into the driving environment. A Montana driver's license is not issued to anyone under the age of 16 unless they have passed the driver education course. Novice drivers who are at least 14 ½ years of age may take the driver education course approved by the Montana Highway Patrol (MHP) and Office of Public Instruction (OPI). Once they have completed driver education and reached the age of 15, these novice drivers may be issued a license. The State requires a Learner's License that is good for six months when validated by an examiner. An accompanying licensed driver must be a parent, guardian, or traffic education instructor. Adopting other measures of graduated licensing, as outlined in the National Highway Traffic Safety Administration (NHTSA) Advisory for Impaired Driving, would mean significant changes for the Montana program.

Up to the age of 21, the young/novice driver is issued a license, which is distinctive from the regular operator's license. The digital portrait on the license of the young/novice driver appears on the bottom right hand side of the driver license, while the portrait of anyone 21 years of age and older appears on the bottom left hand side of the license. For drivers less than 21, "Age 21 on 12/31/2001" (the actual date they turn 21) is printed in green near the upper left corner of the portrait.

MVD continues to identify high-risk drivers. Applicant's driving records are screened to identify problem drivers and policies are set on the acceptable medical qualifications of an applicant. This is accomplished by the Montana Administrative Board, which functions under the State's administrative law. MVD's Medical Advisory Board continues to assist in the development of programs to identify problem drinkers at the time of application or license renewal. Recently, MVD received a new position from the Legislature to help coordinate various screening efforts.

MVD provides for license examiners to attend American Association of Motor Vehicle Administrators (AAMVA) meetings to receive subject area training to be able to recognize fraudulent documents or individuals that may fraudulently apply for a driver's license. While brochures, such as "Responsible Alcohol Sales," mentioned earlier, refer to Training for Intervention Procedures (TIPS) for alcoholic beverage sellers, training of beverage sellers comes primarily from the Alcohol Industry.

Another effort by MVD to prevent improper issuance of licenses to problem drinking drivers is to conduct National Driver Register (NDR) inquiries about new drivers' possible offenses in other states. MVD then seeks to retrieve licenses issued to persons found to be ineligible due to prior conviction elsewhere. Montana is a member of the Driver License Compact (DLC).

## **Recommendations**

- ◆ Continue emphasis to promote, educate and inform the motoring public about the effects of alcohol and other drugs, that drinking and driving is an unhealthy choice, and the consequences of drinking and driving.

- ◆ **Charge a multi-agency stakeholder group to consider the objectives, obstacles, strategies, and benefits of adopting a graduated licensing system for novice drivers as outlined in the National Highway Traffic Safety Administration (NHTSA) Advisory for Impaired Driving.**

## **4-B: Deterrence**

### **Advisory**

*The state driver licensing agency should support the passage and implementation of laws to deter impaired driving.*

### **Status**

Since the 1994 Assessment, progress has been made in Montana in the passage and implementation of laws to deter impaired driving. In 1995, revised motor vehicle sanctions were imposed providing for license suspension for drivers under age 21 who drive with an Alcohol Concentration (AC) of .02 or greater. Except for the alcohol threshold, the elements, driving or in actual physical control of a motor vehicle upon the ways of the state open to the public, are the same as the .10 DUI statute.

Other efforts by the Motor Vehicle Division (MVD) to deter impaired driving include monitoring licensing records to identify high-risk drivers for referral to education or remediation programs, and ensuring the accurate and timely reporting of alcohol and drug violations as prescribed by the Commercial Drivers License (CDL) regulations.

MVD has the ability to suspend or revoke the driver's license of anyone who refuses an AC test. During the 1994 Assessment, it was recommended that the suspension or revocation for an implied consent refusal should be longer than for a test failure. It was felt that the longer suspension/revocation term for refusal, would encourage drivers to comply with the State's Implied Consent Act. Unfortunately, seven years later, this recommendation still has not been implemented.

The 1994 Assessment also recommended tougher measures, such as a process to administratively suspend or revoke a driver's license for a test failure. In 2001, Montana has not adopted administrative license revocation (ALR). Adopting ALR, as outlined in the National Highway Traffic Safety Administration (NHTSA) Advisory for Impaired Driving, would include many other sanctions, in addition to the administrative suspension, such as a longer suspension (or revocation) for refusal, and sanctions for individuals found using fraudulently obtained or altered driver's licenses.

Regarding the issuance of distinctive licenses to drivers under age 21, the current Montana driver license contains the legend (in green): Age 21 on 12/31/2001. In addition, the digital portrait on the license of anyone under 21 years of age appears on the bottom right hand side of the driver license, while the portrait of anyone 21 years of age and older appears on the bottom left hand side of the license. As previously stated in Section 4-A, Montana does not have a graduated driver licensing (GDL) program as outlined in the NHTSA Advisory for Impaired Driving.

Motor vehicle traffic crash information becomes a part of an individual's driver license record in Montana, if a disposition (conviction) was rendered that relates to the cause of the crash and can be matched to the summons number on the HQ1599 Crash Investigator's Report. With this

requirement for matching, it is suspected that qualifying crashes occur, which are not added to an individual's driver record. If a summons number is not added to the HQ1599, a match cannot be made, and if an officer chooses to submit a short form, HQ1599-S, because the crash may have resulted only in property damage, the shorter space for recording this information makes these types of matches difficult as well.

### **Recommendations**

- ◆ Continue emphasis on the administration of current laws to deter impaired driving, enforcing sanctions for persons convicted of DUI and requiring longer license suspensions for repeat offenders.
- ◆ Charge a multi-agency stakeholder group to evaluate the objectives, obstacles, strategies, and benefits of adopting administrative license revocation (ALR) as outlined in the NHTSA Advisory for Impaired Driving.
- ◆ **Continue emphasis for providing officers in the field with mobile computing technology to streamline and to integrate the recording of motor vehicle traffic crash and summons information.**

## 4-C: Program Management

### Advisory

*Effective management of the motor vehicle agency primarily involves the use and dissemination of the information the agency houses. Other factors that support the workings of the system must also be considered in order for it to operate at peak efficiency.*

### Status

Driver license, driver history and vehicle registration information is the responsibility of the Motor Vehicle Division (MVD). The driver history file contains a record of motor vehicle convictions and penalties as well as actions imposed by the MVD, such as suspensions and revocations. In making a traffic stop, an officer's ability to access this information in Montana is "radio-based" for most of the State. Unfortunately, dispatchers are often backed up, and the officer is unable to access this information in a timely manner. Officers in a few select jurisdictions in the State, e.g., Missoula, Billings and Helena, are able to access driver/vehicle information directly through the Criminal Justice Information Network (CJIN), using in-car computers. Plans include the use of transfer funds through the Traffic & Safety Bureau (T&SB) to spread this functionality to State and local law enforcement throughout Montana.

Accessing driver and vehicle information for highway safety is only a part of the challenge. Judiciary, for example, has the ability to do an electronic query of the MVD files for use in sentencing. The question becomes one of assuring that the information that is queried is timely and complete. Factors that can influence the timeliness and completeness of DUI arrest information include:

- the lack of a uniform traffic ticket (UTT) or summons;
- the significant time involved for a DUI arrest to go through the system (from arrest to conviction); and
- the fact that a driver may have multiple offenses during this time in various jurisdictions.

If original charges are reduced during the process, finding out what the final tracking of a DUI arrest was all the way through the process to what it finally ended up as in the form of a disposition can be problematic.

The judiciary has the ability to query MVD electronically. MVD still receives final disposition information from the Judiciary by mail. On a limited basis, the upload of disposition information from Courts of Limited Jurisdiction (city, municipal, or justice of the peace) in Missoula, Billings, and Great Falls to the Court Administrator's Office in Helena is being performed electronically. Long-range plans call for a joint effort by MVD, working with stakeholders, such as the Court Administrator's Office, to develop future efficiencies in tracking disposition information and updating Montana's driver history record.

The greatest concern for timely and complete information is the need that an officer has when making a traffic stop. The officer needs to know if a vehicle is stolen, if a driver could be dangerous, or might be responsible for other recent DUI offenses. Looking at this information from a management perspective, users of a traffic citation/adjudication process include law enforcement agencies, driver licensing and suspension authorities, courts, motor carrier officials, highway safety officials, lawmakers, and others.

The traffic citation/adjudication process identifies the arrest and conviction activity for the drivers in the State. This information tracks citations from the time of distribution to an enforcement agency, issuance to an offender, court disposition, and posting to the driver history record. Information from this process identifies the type of violation, location, date and time, the enforcement agency, court of jurisdiction, and final disposition. This information is used to determine appropriate enforcement activity, accounting and control of citation forms, and monitoring of court activity regarding the disposition of traffic cases. One of the findings from the 1994 Assessment was that adequate data are not readily accessible to law enforcement, courts, and planners. It was recommended the State develop a comprehensive tracking system to provide data on DUI convictions, dismissals, repeat offenders and punishment. Another recommendation was the adoption and use of a uniform traffic ticket statewide.

MVD is actively involved in efforts to ensure accurate and timely reporting of alcohol and drug violations as prescribed by the Commercial Driver License (CDL) regulations. Montana's motor carrier safety efforts include:

- require the courts to report convictions of violations of motor carrier safety standards to the Department of Justice (DOJ);
- clarify the suspension of a CDL;
- conform commercial driver licensing laws to federal laws; and
- support other aspects of the motor carrier safety effort.

In regards to assuring that all license records are being used to help assess whether a driver requires alcohol or drug treatment, MVD reports they have nothing in place at the present time. Montana actively participates in the Driver License Compact (DLC) to facilitate the exchange of driver license information between jurisdictions.

### **Recommendations**

- ◆ Continue efforts to work with State and local law enforcement agencies to update their vehicles with the latest computer technology for traffic law enforcement.
- ◆ Promote joint efforts by MVD, working with the Court Administrator's Office, and others to replace the current "mail process" of receiving final disposition information with an electronic upload of final dispositions to the driver history record.

- ◆ **Promote the adoption and use of a statewide uniform traffic ticket (UTT).**
- ◆ **Charge a multi-agency stakeholder group to consider the objectives, obstacles, strategies, and benefits of adopting a statewide tracking system for citations from the time of their distribution to an enforcement jurisdiction, through issuance to an offender, ultimate disposition by a court and posting to the driver history record.**

## **5. TREATMENT AND REHABILITATION**

*Many first-time impaired driving offenders and most repeat offenders have substantial substance abuse problems that affect their entire lives, not just their driving. They have been neither prevented nor deterred from impaired driving. Each state should implement a system to identify and refer these drivers to appropriate substance treatment programs to change their dangerous behavior.*

### **5-A: Diagnosis and Screening**

#### **Advisory**

*States should have a systematic program to evaluate persons who have been convicted of an impaired driving offense to determine if they have a significant alcohol or other drug use problem.*

#### **Status**

Montana requires all drivers convicted of Driving Under the Influence (DUI), Misdemeanor Dangerous Drugs (MDD), Underage Drinking and Driving (UDD), and third or subsequent Minor in Possession (MIP) to complete a screening for alcohol and other drug dependence. The assessment process is the first of three components of the Assessment, Course, and Treatment (ACT) program. The Montana Department of Health and Human Services, Division of Addictive and Mental Disorders (DAMD) licenses agencies providing assessment services. Assessments include a minimum of three approved evaluation instruments, a minimum of two assessment interviews, and collateral information, such as history of substance abuse related problems. Offenders are classified as misuser/no pattern, abuser, chemically dependent, or unidentified. Second and subsequent DUI offenders are automatically referred to treatment with assessment results used to determine appropriate level of treatment. First offenders classified as chemically dependent are likewise referred to appropriate treatment.

Results of the assessment are recorded on a standard form and forwarded to the court as well as to the treatment provider and the offender.

Offenders have the option of a second opinion. If this option is elected, the court considers the results of both assessments with the judge making the final decision regarding accepting one of the assessments. There is no limit on the time allowed to receive a second opinion. This creates a potential loophole by which an offender can delay treatment.

Offenders pay all costs of assessment.

Once referred, the offender becomes the responsibility of the treatment agency. The treatment agency informs the court when treatment is completed or when the offender fails to participate. The court informs the Driver Control Bureau of the disposition.

No single agency has responsibility for tracking and monitoring the progress of offenders

through the ACT process. Unless an offender's treatment provider actively monitors each client, it is possible for an offender to slip through the cracks of the system. Because no data system tracks clients, it is uncertain to what extent offenders leave the system at various points; however, approximately 25 percent of convicted drivers do not apply for license reinstatement.

The assessment conducted in 1994 recommended expanding the treatment requirement to first offenders. Current regulation calls for treatment for first offenders classified as chemically dependent.

### **Recommendations**

- ◆ **Develop and implement a DUI client tracking system.**
- ◆ A single agency should be responsible for tracking and monitoring offenders through the Assessment, Course and Treatment system.

## **5-B: Treatment and Rehabilitation**

### **Advisory**

*States should establish and maintain programs to treat alcohol- and other drug-impaired persons referred through traffic courts and other sources.*

### **Status**

Under the Assessment, Course, and Treatment (ACT) program, first offenders classified as chemically dependent and all second and subsequent offenders are referred to an appropriate level of treatment. Treatment options include: Residential (inpatient), Intensive Outpatient, Outpatient, and Aftercare. Clients may select any provider agency, but services must be provided by a certified chemical dependency counselor. Clients are responsible for the cost of treatment, but most treatment is covered by public or private health insurance plans.

The ACT program also includes a DUI course, including a minimum of four sessions totaling eight hours. The course covers review of laws, physiological effects of alcohol and other drugs, social and psychological implications of alcohol and drug use, and self-assessment. All convicted drivers, regardless of classification and treatment recommendation, must complete the course.

Once referred, the offender becomes the responsibility of the treatment agency. The treatment agency informs the court when treatment is completed or when the offender fails to participate. The court informs the Driver Control Bureau of the disposition.

Montana law requires that second and subsequent offenders complete monthly monitoring for one year from the date of admission to treatment. Monitoring must include one face-to-face individual or group contact per month.

No single agency has responsibility for tracking and monitoring the progress of offenders through the ACT process. Unless an offender's treatment provider actively monitors each client, it is possible for an offender to slip through the cracks of the system. Because no data system tracks clients, it is uncertain to what extent offenders leave the system at various points; however, approximately 25 percent of convicted drivers do not apply for license reinstatement.

### **Recommendations**

- ◆ **Develop and implement a DUI client tracking system.**
- ◆ A single agency should be responsible for tracking and monitoring offenders through the assessment, course, and treatment system.

## **TECHNICAL ASSISTANCE TEAM**

CHIEF ARTHUR ANDERSON

11336 Trade Center Drive  
Rancho Cordova, CA 95742  
(916) 464-2090  
(916) 464-3171 Fax  
alanderson@chp.ca.gov

Chief, Division Commander  
California Highway Patrol

**PAST EXPERIENCE**

- Chief, Personnel and Training Division, California Highway Patrol (CHP)
- Chief, Professional Standards Division, CHP
- Assistant Chief, Golden Gate Division, CHP
- California Governor's Highway Safety Representative

**ORGANIZATIONS/APPOINTMENTS**

- Past Member, National Association of Governor's Highway Safety Representatives
- Member, International Association of Police Chiefs
- Member, California Peace Officers Association
- Past Regional Representative, National Association of Governor's Highway Safety Representatives
- Past Member, Mothers Against Drunk Driving (MADD) Advisory Committee
- Past Member, Mothers Against Drunk Driving (MADD) Cultural Task Force
- Past Member, California Judicial Council
- Past Member, Judicial Training, National Judicial College, Reno, Nevada
- Past Member, NHTSA, Buckle Up America Law Enforcement Campaign Committee
- Past Vice Chair, California Safety Belt Task Force

**SIGNIFICANT AWARD**

- National Highway Traffic Safety Administration Public Service Award

## **DAVID J. BOZAK**

InfoGroup, Inc.  
18945 Fountain Hills Drive  
Germantown, MD 20874  
(301) 540-0331  
bozak@erols.com

M.S. Information Technology, University of Maryland, 2001  
Highway Safety Information Specialist

### **EXPERIENCE**

- 27 years of technical, research, and managerial experience in highway safety/information systems
- Coordinator, Maryland Traffic Records System Strategic Plan
- Coordinator, Connecticut Traffic Records System Action Plan
- Crash Data Specialist, NCSA Data Compatibility Effort
- Crash Data Specialist, Commercial Vehicle Analysis Reporting System (CVARS)
- Traffic Records Coordinator, Washington Traffic Safety Commission
- Accident Records Specialist, North Carolina Automated Crash Reporting System
- Manager, Accident Records Division, Washington State Patrol
- Accident Records Specialist, FHWA demonstration of Emerging Technologies for Accident Data Collection involving the States of Iowa, New Jersey, Washington, and Wisconsin
- Senior Traffic Records Analyst, Traffic Records System Assessment, Strategic Planning & Systems Design for the States of Montana, Nevada, New Jersey, and Ohio
- Traffic Records Assessments for the States of Maryland, Missouri, Rhode Island, Pennsylvania, South Carolina, North Dakota, and Connecticut
- Highway Safety Specialist, Safety Management System development for the State of Mississippi
- Highway Safety Specialist, FHWA Training Course for Safety Management Systems

## **ORGANIZATIONS/APPOINTMENTS**

- Chair, National Safety Council Traffic Records Committee, 2001 – 2002
- Member, Task Group to Develop a Training Curriculum in Traffic Records for Governors Highway Safety Representatives, 2001
- Member, Task Group which revised the Traffic Records Chapter of the Highway Safety Program Advisories document, 1998
- Member, Task Group which developed the Model Minimum Uniform Crash Criteria (MMUCC) Guideline, 1998
- Member of 1999 Task Group to develop a Training Curriculum in addition to a Case Studies Report and Promotional Materials for the MMUCC Guidelines
- Secretary, National Traffic Records Agenda Committee, National Safety Council
- Membership Chair, Executive Board, Traffic Records Committee, National Safety Council. Helped develop the Electronic Roster for Traffic Records System Professionals, a critical link to the National Safety Council's Internet Web site
- Past Secretary, Executive Board, Traffic Records Committee, National Safety Council
- Transportation Research Board (TRB), National Academy of Sciences, Traffic Records and Accident Analysis Committee (A3B11), Now A3B5 Safety Data, Analysis and Evaluation Committee
- Chair, Traffic Records User Committee (TRUC), Subcommittee of Traffic Records Committee, National Safety Council
- Program Chair, National Safety Council Traffic Records Forum 2000
- Presented Highway Safety Data Challenge to Annual 2000 Meeting of National Association of Governors' Highway Safety Representatives (NAGHSR)
- Member of 2000 Task Group to develop Quantitative Analysis Training Curriculum for Program Managers, sponsored by NHTSA
- Member of 2000 Task Group to develop Highway Safety Data Curriculum for Governor's Highway Safety Representatives and Coordinators, sponsored by NAGHSR

## **VIRGINIA M. JARAMILLO**

604 West San Mateo  
Santa Fe, NM 87504  
(505) 827-0428  
(505) 827-0431 FAX  
[virginia.jaramillo@nmshtd.state.nm.us](mailto:virginia.jaramillo@nmshtd.state.nm.us)

Deputy Director, Transportation Programs Division  
New Mexico Traffic Safety Bureau

### **Past Experience**

- Chief Planner, NM Traffic Safety Bureau
- Budget Analyst, NM State Highway and Transportation Department
- Financial Specialist, NM Corrections Department

### **Organizations/Appointments**

- New Mexico Governor's Highway Safety Coordinator
- Region VI Representative & Board Member, National Association of Governor's Highway Safety Representatives
- Alternate Regional Representative, National Association of Governor's Highway Safety Representatives
- Councilor, NM Cooperative Agreement Advisory Council
- Councilor, NM DWI Grant Council
- Coordinator, Governor's Cabinet Council on DWI Reduction
- Chair, NM Traffic Safety Advisory Committee
- Member, NM DWI Interagency Task Force
- Member, NM Alcohol Servers Education Advisory Board
- Member, NM Chief's of Police Association
- Member, NM Motor Transportation Advisory Committee

- Member, NM Trauma Society
- Member, NM Injury Surveillance Alliance
- Member, NM Emergency Medical Services Committee
- Former Member, NM Association of Government Accountants

## **ROBERT P. LILLIS**

58 Scotland Road  
Canandaigua, NY 14424  
(716) 394-5811  
rob.lillis@gte.net

University of Rochester  
School of Medicine and Dentistry  
Department of Emergency Medicine

Director of Research, Department of Emergency Medicine and Director of Research, Accident Investigation Team

### **Past Experience**

- Principal Investigator for the "Detection of Drugs in Injured Drivers" project, "Local Traffic Safety Program Technical Assistance Project" and "Neck Injury in Rear-end Collision" Study
- Project Director, Special Highway Safety Policy Analysis Project and Youth Alcohol Study, New York State Division of Alcoholism and Alcohol Abuse
- Manager, Traffic Injury Prevention Projects, New York State Department of Health
- Project Director, Comprehensive Community Traffic Injury Prevention Project
- Instructor of Epidemiology, New York State School of Public Health, State University of New York at Albany
- Acting Director of the Planning, Research, and Evaluation Unit, Illinois Dangerous Drugs Commission
- Research Scientist, B.R.X., Inc., Action, Older American Evaluation Project
- Research Assistant, National Action Committee, U.S. Office of Education National Drug Abuse Project

### **Consulting Activities**

- Evaluation Consultant, Partnership for Ontario County, Comprehensive Community Alcohol, Tobacco and Other Drug Abuse Prevention Program
- Special Consultant to the U.S. General Accounting Office: Methodological reviews of minimum drinking age laws (1985); motorcycle helmet laws (1991); and Mandatory seat-belt laws (1992)

- Evaluation Consultant to Rockland County, New York, Children at Risk Project (Funded by the U.S. Office of Substance Abuse Prevention)
- Evaluation Consultant to Project Survival, National Center for the Furtherance of Jewish Education, Crown Heights Brooklyn, New York
- Consultant to the Rural Drug Abuse Study, Conducted by B.R.X., Inc., for the National Institute of Drug Abuse
- US DOT NHTSA Impaired Driving Assessment Team: Maryland, Arizona, California, Texas, Connecticut, West Virginia, Wisconsin, New Mexico, Minnesota, North Carolina, Oregon, Tennessee, and Missouri

### **Organizations/Appointments**

- Member, Mothers Against Drunk Driving, National Cultural Diversity Task Force
- Member, International Committee on Alcohol Drugs and Traffic Safety
- New York Governor Carey's Task Force on Drunk Driving
- Former Membership Chair, Section on Alcohol and Drug Abuse, American Public Health Association
- Former Member, Executive Committee of the Council on Alcohol Policy, National Association of Public Health Policy
- Chairman, Evaluation Committee, American Red Cross Cholesterol Screening Pilot Study

## **JUDGE G. MICHAEL WITTE**

Courthouse, 3rd Floor  
215 W. High St.  
Lawrenceburg, IN 47025  
(812) 537-8874  
(812) 532-2032 Fax  
gmwitte@hotmail.com

Judge  
Dearborn Superior Court  
Lawrenceburg, IN

### **Organizations/Appointments**

- American Bar Association, Indiana Delegate to National Conference of Special Court Judges
- American Judges Association
- Past Member, Board of Managers, Indiana Judges Association
- Past Member, Board of Directors, Judicial Conference of Indiana
- Indiana State Bar Association
- Chairman, Southeast Regional Community Correction Department
- Chairman, Special Courts Committee, Judicial Conference of Indiana
- Chairman, New Judge Orientation Committee, Judicial Conference of Indiana

### **Honors**

- Judicial Fellow, National Highway Traffic Safety Administration (NHTSA)
- National Judicial College, NHTSA Judicial Implementation Board
- Author, "Pre-Adjudication Intervention in Alcohol-Related Cases," ABA Judges Journal, Summer, 1998

### **Former Assignments**

- Private law practice, Denmure & Denmure, Aurora, Indiana
- Deputy Prosecuting Attorney, Dearborn County, Indiana

## **Consulting**

- NHTSA, Lifesavers: Albuquerque, NM; Orlando, FL; Cleveland, OH
- NHTSA and National Judicial College, Adjudication of Impaired Driving Course: States of Indiana, New Hampshire
- NHTSA Partners in Progress
- NHTSA Impaired Driving Assessments: Hawaii, Missouri
- NHTSA Aggressive Driving Implementation Team

## Montana Impaired Driving Assessment Agenda

October 21 – 26, 2001

Holiday Inn Downtown Helena

### Sunday, October 21, 2001

1:00 – 4:00 P.M.

#### Assessment Team Meeting:

- A. **Highway Safety Reports:** Overview of Problem ID & Demographics: Jack Williams, MT Department of Transportation: Evaluation & Research – Helena, MT
- B. **Program Management:** Albert E. Goke, MT Governor’s Traffic Safety Representative
  - Conducting DUI Programs Through Local SAFE KIDS/SAFE COMMUNITIES COALITIONS
  - Records & Evaluation
  - Employee Program
  - Prevention & Deterrence of Impaired Driving Using PI&E
  - Financing DUI Programs

### Monday, October 22, 2001

- 8:30 A.M. – 8:45 A.M. **Overview & Introductions**
- 8:45 A.M. – 9:00 A.M. **Public Information & Education Related to Impaired Driving:** Mr. Albert E. Goke
- 9:00 A.M. – 9:10 A.M. Questions from Panel
- 9:10 A.M. – 9:25 A.M. Break
- 9:25 A.M. – 10:10 A.M. **School Based Programs & Youth Programs:** David Huff from MT Office of Public Instruction – Helena, MT
- 10:10 A.M. – 10:20 A.M. Questions from Panel
- 10:20 A.M. – 11:05 A.M. Dr. Jeff Linkenback, Director of **MT Social Norms “Most of US” Campaign**, from Montana State University
- 11:05 A.M. – 11:15 A.M. Questions from Panel
- 11:15 A.M. – 12:15 P.M. Lunch (On Your Own)

- 12:15 P.M. – 1:00 P.M.      **Board of Crime Control’s Juvenile Justice Program:** Audrey Allums, Program Specialist
- 1:00 P.M. – 1:10 P.M.      Questions from Panel
- 1:10 P.M. – 2:10 P.M.      **Adjudication of Montana’s DUI Laws:** Gregory P. Mohr, Richland County Justice of the Peace & Member of the Courts of Limited Jurisdiction
- 2:10 P.M. – 2:20 P.M.      Questions from Panel
- 2:20 P.M. – 3:20 P.M.      **Prosecution of Montana’s DUI Laws:** John Parker, Cascade Deputy County Prosecutor
- 3:20 P.M. – 3:30 P.M.      Questions from Panel
- 3:30 P.M. – 4:00 P.M.      **Driving Licensing:** Mary LaFond, Bureau Chief, Records and Driver Control – Helena
- 4:00 P.M. – 4:10 P.M.      Questions from Panel
- 4:10 P.M. – 5:30 P.M.      Break
- 5:30 P.M. – 6:15 P.M.      **Law Enforcement Academy Field Sobriety Training Program:** Gale Albert, MT Law Enforcement Academy
- 6:15 P.M. – 6:30 P.M.      Questions from Panel

**Tuesday, October 23, 2001**

- 8:00 A.M. – 9:00 A.M.      **Enforcement of Impaired Driving Laws**
- A.      Mark Lerum, Assistant Police Chief, Helena Police Department
  - B.      Colonel Bert Obert, Chief, MT Highway Patrol – Helena, MT
  - C.      Captain Don Mormon, Missoula County Sheriff’s Department
- 9:00 A.M. – 9:10 A.M.      Questions from Panel
- 9:10 A.M. – 9:25 A.M.      Break
- 9:25 A.M. – 10:10 A.M.      **Legislation**
- A.      Albert E. Goke, MT Governor’s Traffic Safety Representative

B. Harold Hanser, Former Yellowstone County Prosecutor

- 10:10 A.M. – 10:20 A.M. Questions from Panel
- 10:20 A.M. – 11:00 A.M. **Diagnosis & Screening:** Sandy Jones, Boyd Andrew, CDC – Helena, MT
- 11:00 A.M. – 11:10 A.M. Questions from Panel
- 11:10 A.M. – 12:10 P.M. Lunch (On Your Own)
- 12:10 P.M. – 12:40 P.M. **Treatment & Rehabilitation:** Ken Mordan, MT Department of Public Health & Human Service, Mental & Addictive Disorders Division
- 12:40 P.M. – 12:50 P.M. Questions from Panel
- 12:50 P.M. – 1:05 P.M. **Assessment, Course, Treat (ACT) Training:** Priscilla Sinclair, MT Traffic & Safety Bureau, Department of Transportation
- 1:05 P.M. – 1:10 P.M. Questions from Panel
- 1:10 P.M. – 2:10 P.M. **Citizen Advocacy Groups:**
- A. Mothers Against Drunk Driving (MADD): Linda Hill, Bozeman, MT
- B. H.E.L.P.: Robin Morris, Havre, MT
- 2:10 P.M. – 2:20 P.M. Questions from Panel
- 2:20 P.M. – 2:50 P.M. **Victim of DUI Driver:** Nancy Hollingshead of Yellowstone County
- 2:50 P.M. – 3:00 P.M. Questions from Panel
- 3:00 P.M. – 3:30 P.M. **Employer Programs:** Montana Rail Link, Marty Rau
- 3:30 P.M. – 3:40 P.M. Questions from Panel
- 3:40 P.M. – 4:10 P.M. **Liquor Licensing:** Jason Wood, Department of Revenue – Helena, MT
- 4:10 P.M. – 4:20 P.M. Questions from Panel

**Wednesday, October 24, 2001**

- 8:00 A.M. – 9:30 A.M.      **MT SAFE KIDS/SAFE COMMUNITIES COALITIONS:**  
Focus on Impaired Driving Issues Including Transportation  
Alternatives
- A.      Lonie Hutchison – Missoula County
  - B.      Al Recke – Cascade County
  - C.      Jack Cummins – Carbon County
- 9:30 A.M. – 9:40 A.M.      Questions from Panel
- 9:40 A.M. – 9:55 A.M.      Break
- 9:55 A.M. – 10:25 A.M.      **Responsible Alcohol Service:** Bruce Alread, Town Pump Inc. &  
Affiliates
- 10:25 A.M. – 10:35 A.M.      Questions from Panel
- 10:35 A.M. – 11:20 A.M.      Tavern Owners: Mark Staples, Legal Counsel & Lobbyist, MT  
Taverns Owners Association – Helena, MT
- 11:20 A.M. – 11:30 A.M.      Questions from Panel
- 11:30 A.M. – 12:30 A.M.      Lunch (On Your Own)